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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

ALASKA MUNICIPAL LEAGUE
26th ANNUAL LOCAL GOVERNMENT CONFERENCE
November 4-6, 1976
Fairbanks, Alaska

MUNICIPAL LAND SELECTIONS

The attached information is presented to members of the Alaska Municipal League to share information developed or synthesized by the Alaska Division of Land Management pertaining to municipal land selections under AS 29.18.190-.200. In compiling this document the Division has drawn upon a number of sources. Specific data, therefore, represent a continuum from precise figures (e.g. accumulative Tentative Approval received by the State), through best estimates (population figures), to rough approximations for the sake of discussion (occupied, appropriated and reserved land acreage).

This information is not offered to prove any particular point, but rather to show the existing situation regarding municipal land selections and some relationships among the municipalities which have participated in this program to date.

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Explanatory Notes for Table A

Column 1 contains the cumulative total of tentatively approved ("T.A.") lands conveyed to the State of Alaska under Section 6(b) of the Alaska Statehood Act.

Column 2 is a consolidated cumulative total of occupied, appropriated and reserved lands comprised of the following:

a. Five Classifications (Timber, Grazing, Watershed, Public Recreation and Resource Management) which cover areas not available for transfer to boroughs. Only those above classifications covering areas of Section 6(b) lands (GS) in excess of 40 acres in size have been included.

b. Municipal approvals per date of issue.

c. State Parks were excluded upon the effective date for that portion then under BLM T/A or patent under Sec. 6(b). Additional title received within park areas after formation was excluded in the six month period in which title was received.

d. State Recreation areas are treated in a similar manner.

e. State Wildlife Refuges, except for Susitna Flats State Game Refuge and Trading Bay State Game Refuge.

f. Estimated tentatively approved Sec. 6(b) lands selected by village corporations. The totals given are only those lands selected as of December, 1973 rather than those lands within the 25 township withdrawal as of December, 1971.

g. Estimated lands obligated under the Cook Inlet Land Trade.

Column 2 does not include mineral or oil and gas leases, tidelands, submerged lands or shorelands.

Column 3 (Column 1 minus Column 2). These figures comprise the best available State estimate of net vacant, unappropriated and unreserved lands based upon the items included above. Some items (i.e., ANSCA and Cook Inlet Trade) include variables, both in amounts and as to the areas (Matanuska, Kenai or Anchorage) in which the natives can elect to receive their lands.

TABLE A-1

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the Anchorage Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals* (Cumulative)
6/30/60	-	-	-	-
12/31/60	-	-	-	-
6/30/61	-	-	-	-
12/31/61	1766	-	1766	-
6/30/62	15746	-	15746	-
12/31/62	15746	-	15746	-
6/30/63	15766	-	15766	-
12/31/63	16346	-	16346	-
6/30/64	70084	-	70084	-
12/31/64	70886	-	70886	-
6/30/65	141008	-	141008	-
12/31/65	185154	-	185154	-
6/30/66	185186	1725	183461	125
12/31/66	210474	1859	208615	259
6/30/67	210474	1859	208615	259
6/31/67	211000	2875	208125	1275
6/30/68	211005	5060	205945	3060
12/31/68	211074	5190	205884	3880
6/30/69	213730	6277	207453	6277
12/31/69	213730	7633	206097	6323
6/30/70	213730	200938	12797	6323
12/31/70	213730	200928	12802	6314
6/30/71	213730	201021	12709	6328
12/31/71	213730	201021	12709	6328
6/30/72	213730	201021	12709	6328
12/31/72	213775	201360	12415	6368
6/30/73	213775	201950	11825	6957
12/31/73	213795	201950	11845	6957
6/30/74	230746	201722	29024	6729
12/31/74	267326	255139	12187	6729
6/30/75	267326	255139	12187	6729
12/31/75	267326	255139	12187	6729
6/30/76	267326	255139	12187	6729
10/31/76	267326	255139	12187	6729

*Includes lands approved and patented to the former City of Girdwood.

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records

TABLE A-2

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the Fairbanks North Star Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals (Cumulative)
6/30/60	-	-	-	-
6/31/60	18123	-	18123	-
6/30/61	59188	-	59188	-
12/31/61	85291	-	85291	-
6/30/62	194838	-	194838	-
12/31/62	221488	-	221488	-
6/30/63	232506	-	232506	-
12/31/63	470136	-	470136	-
6/30/64	657605	-	657605	-
12/31/64	689451	400	689051	-
6/30/65	705484	480	705004	-
12/31/65	705484	9138	696346	3678
6/30/66	723137	9380	713757	3920
12/31/66	736513	31018	705495	10123
6/30/67	736716	31008	705708	10123
12/31/67	904009	30828	873181	10123
6/30/68	994695	32381	962314	11676
12/31/68	994695	32161	962534	11676
6/30/69	994695	32732	961963	12144
12/31/69	994695	31772	962923	12144
6/30/70	994695	32089	962606	12144
12/31/70	994695	70084	924611	12126
6/30/71	994695	107229	887466	15326
12/31/71	994695	142854	851841	15326
6/30/72	994695	180658	814037	17391
12/31/72	994695	305381	689314	17391
6/30/73	994695	305235	689460	17405
12/31/73	995013	731110	263903	17547
6/30/74	995013	730995	264018	17547
12/31/74	1150547	731315	419232	17547
6/30/75	1151382	731315	420067	17547
12/31/75	1153734	802839	350895	17587
6/30/76	1443888	814954	628934	17587
10/31/76	1443888	814954	628934	17587

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records.

TABLE A-3

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the Kenai Peninsula Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals (Cumulative)
6/30/60	30536	-	30536	-
12/31/60	63300	-	63300	-
6/30/61	710917	13765	697152	-
12/31/61	758938	24595	734343	-
6/30/62	839114	47121	791993	-
12/31/62	839318	51318	788000	-
6/30/63	886234	67952	818282	-
12/31/63	1472539	69925	1402614	-
6/30/64	1524224	131831	1392393	-
12/31/64	1684790	131831	1552959	-
6/30/65	1738005	132045	1605960	-
12/31/65	1664215	137937	1526278	5733
6/30/66	1671965	137974	1533991	5770
12/31/66	1672352	138873	1533479	6668
6/30/67	1683783	138915	1544868	6711
12/31/67	1683783	226029	1457754	6864
6/30/68	1683783	226413	1457370	7247
12/31/68	1683783	252636	1431147	26223
6/30/69	1683783	267811	1415972	32990
12/31/69	1683783	369449	1314334	35958
6/30/70	1683783	382669	1301114	38446
12/31/70	1683783	514264	1169519	38783
6/30/71	1683783	517011	1166772	41530
12/31/71	1683783	782542	901241	41620
6/30/72	1683783	930629	753154	41957
12/31/72	1683783	930869	752914	42277
6/30/73	1683783	1155052	528731	42432
12/31/73	1737254	1171888	565366	47335
6/30/74	1737802	1173190	564612	48718
12/31/74	1794987	1174164	620823	49814
6/30/75	1806187	1212418	593769	49895
12/31/75	1943965	1212418	731547	49895
6/30/76	1943968	1534204	409764	49895
10/31/76	1943968	1534204	409764	49895

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records.

TABLE A-4

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the Matanuska-Susitna Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals (Cumulative)
6/30/60	75838	-	75838	-
12/31/60	741678	-	741678	-
6/30/61	880977	-	880977	-
12/31/61	1387582	-	1387582	-
6/30/62	2243924	-	2243924	-
12/31/62	2343215	5164	2338051	-
6/30/63	2765104	5164	2759940	-
6/31/63	3134435	5164	3129271	-
6/30/64	3295568	5212	3290356	-
12/31/64	3316170	6517	3309653	-
6/30/65	3338351	11730	3326621	4482
12/31/65	3478007	94175	3383832	19059
6/30/66	3723789	201397	3522392	99885
12/31/66	3793658	317985	3475673	202683
6/30/67	3892804	317985	3574819	202683
12/31/67	3975284	328820	3646464	202687
6/30/68	4002404	340457	3661947	202687
12/31/68	4003664	486210	3517454	202818
6/30/69	4008224	485370	3522854	202978
12/31/69	4008224	483250	3524974	202381
6/30/70	4008224	483141	3525083	203997
12/31/70	4008224	764664	3243560	217493
6/30/71	4008224	1097801	2910423	257298
12/31/71	4008224	1146942	2861282	251928
6/30/72	4008224	1180929	2827295	252198
12/31/72	4008224	1185344	2822880	253676
6/30/73	4053543	1243999	2809544	257472
12/31/73	4053543	3045878	1007665	259836
6/30/74	4076305	3055244	1021061	270233
12/31/74	4076592	3069114	1007478	285656
6/30/75	4076592	3078110	998482	288737
12/31/75	4076592	3138112*	938480	288737
6/30/76	4076592	3278043*	798549	288737
10/31/76	4076592	3255159*	821433	288737

*Includes 65,699 acres for lands classified for Willow Capital Site only.

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records.

TABLE A-5

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the North Slope Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals (Cumulative)
6/30/60	-	-	-	-
12/31/60	-	-	-	-
6/30/61	-	-	-	-
12/31/61	-	-	-	-
6/30/62	-	-	-	-
12/31/62	-	-	-	-
6/30/63	-	-	-	-
12/31/63	-	-	-	-
6/30/64	-	-	-	-
12/31/64	1398927	-	-	-
6/30/65	1622713	-	-	-
12/31/65	1622713	-	-	-
6/30/66	1622713	-	-	-
12/31/66	1622713	-	-	-
6/30/67	1622713	-	-	-
12/31/67	1622713	-	-	-
6/30/68	1622713	-	-	-
12/31/68	1622713	-	-	-
6/30/69	1621827	1621246	581	-
12/31/69	1621827	1616791	5036	-
6/30/70	1621827	1616460	5367	-
12/31/70	1621827	1616460	5367	-
6/30/71	1621827	1615820	6007	-
12/31/71	1621827	1615820	6007	-
6/30/72	1621827	1615820	6007	-
12/31/72	1621827	1615820	6007	-
6/30/73	1621827	1615820	6007	-
12/31/73	1621827	1615820	6007	-
6/30/74	4154804	4148357	6447	-
12/31/74	4155259	4148812	6447	-
6/30/75	4155259	4148812	6447	-
12/31/75	4155739	4149292	6447	-
6/30/76	4155739	4149292	6447	-

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records.

Explanatory Notes

A total State Population figure of 404,634 is based upon the State Department of Labor "Estimates of Total Resident Population of Alaska By Census Divisions as of July 1, 1975 and Components of Population Change since April 1, 1970."

Individual city and borough totals are based upon population data from FY 1976 State Revenue Sharing as shown on "Organized Boroughs and Cities" January 1, 1976 map produced by the State of Alaska, Department of Community and Regional Affairs. These figures were amended by Community and Regional Affairs in the case of the following: North Slope Borough, Fairbanks North Star Borough, Matanuska Susitna Borough, Valdez and the correction of a typographical error in the case of Savoonga.

Based upon the above Community and Regional Affairs Information, 306,967 comprises the population of the unified municipalities of Juneau, Sitka, Anchorage and the other eight organized boroughs.

The population total for those incorporated cities outside the area of the organized boroughs is 51,397.

UNIFIED HOME RULE MUNICIPALITIES

	<u>*POPULATION</u>	<u>ESTIMATED SQ. MILES</u>	<u>INCORPORATION DATE</u>
City and Borough of Juneau	17,356	3,100	July 1, 1970
City and Borough of Sitka	6,966	2,900	December 2, 1971
Municipality of Anchorage	175,697	1,500	September 15, 1975

ORGANIZED BOROUGHES

<u>CLASSIFICATION</u>	<u>*POPULATION</u>	<u>ESTIMATED SQ. MILES</u>	<u>INCORPORATION DATE</u>
<u>Home Rule</u>			
North Slope Borough	8,634	68,281	July 1, 1972
<u>Second Class</u>			
Bristol Bay Borough	1,147	1,200	October 2, 1962
Fairbanks North Star Borough	50,029*	7,500	January 1, 1961
Kenai Peninsula Borough	16,645	25,600	January 1, 1964
Ketchikan Gateway Borough	11,052	1,250	September 6, 1963
Kodiak Island Borough	6,627**	4,500	September 30, 1963
Matanuska-Susitna Borough	10,834	23,000	January 1, 1964
<u>Third Class</u>			
Haines Borough	1,980***	2,620	August 29, 1968

*Portions of Fort Wainwright have been annexed to the City of Fairbanks, Richardson Air Force Base is excluded from the Fairbanks North Star Borough.

**Excluding residents of Kodiak Coast Guard Station (base proper).

***Excluding residents of the Klukwan Indian Reservation and Petroleum Distribution office, Haines Terminal and Pumping Station (base proper).

<u>CLASSIFICATION</u>	<u>*POPULATION</u>	<u>INCORP. DATE</u>
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Home Rule Cities

Cordova	2,406	1909
Fairbanks	32,975	1903
Kenai	5,161	1960
Ketchikan	7,618	1900
Kodiak	3,923	1940
North Pole	462	1953
Palmer	1,409	1951
Petersburg	2,126	1910
Seward	1,823	1912
Valdez	6,070	1901
Wrangell	3,152	1903

First Class Cities

Barrow	2,307	1959
Craig	467	1922
Dillingham	1,025	1963
Galena	631	1971
Haines	1,366	1910
Homer	1,449	1964
Hoonah	848	1946
Hydaburg	371	1927
Kake	679	1952
King Cove	359	1947
Klawock	281	1929
Nenana	486	1921
Nome	2,585	1901
Pelican	169	1943
Saint Mary's	415	1967
Selawik	521	1963
Seldovia	612	1945
Skaqway	695	1900
Soldotna	1,800	1967
Unalaska	510	1942
Yakutat	348	1948

Second Class Cities

Akiok	102	1972
Akiachuk	371	1974
Akiak	192	1970
Akolmiut	608	1969
Alakanuk	512	1969
Aleknagik	227	1973
Allakaket	164	1975
Ambler	217	1971
Anaktuvok Pass	135	1957
Anderson	463	1962
Angoon	475	1963
Aniak	273	1972
Anvik	87	1969
Bethel	2,291	1957
Brevig Mission	120	1969
Buckland	119	1976
Cheforak	182	1974
Chevak	447	1967
Chunthbaluk	122	1975

CLASSIFICATION *POPULATION INCORP. DATE

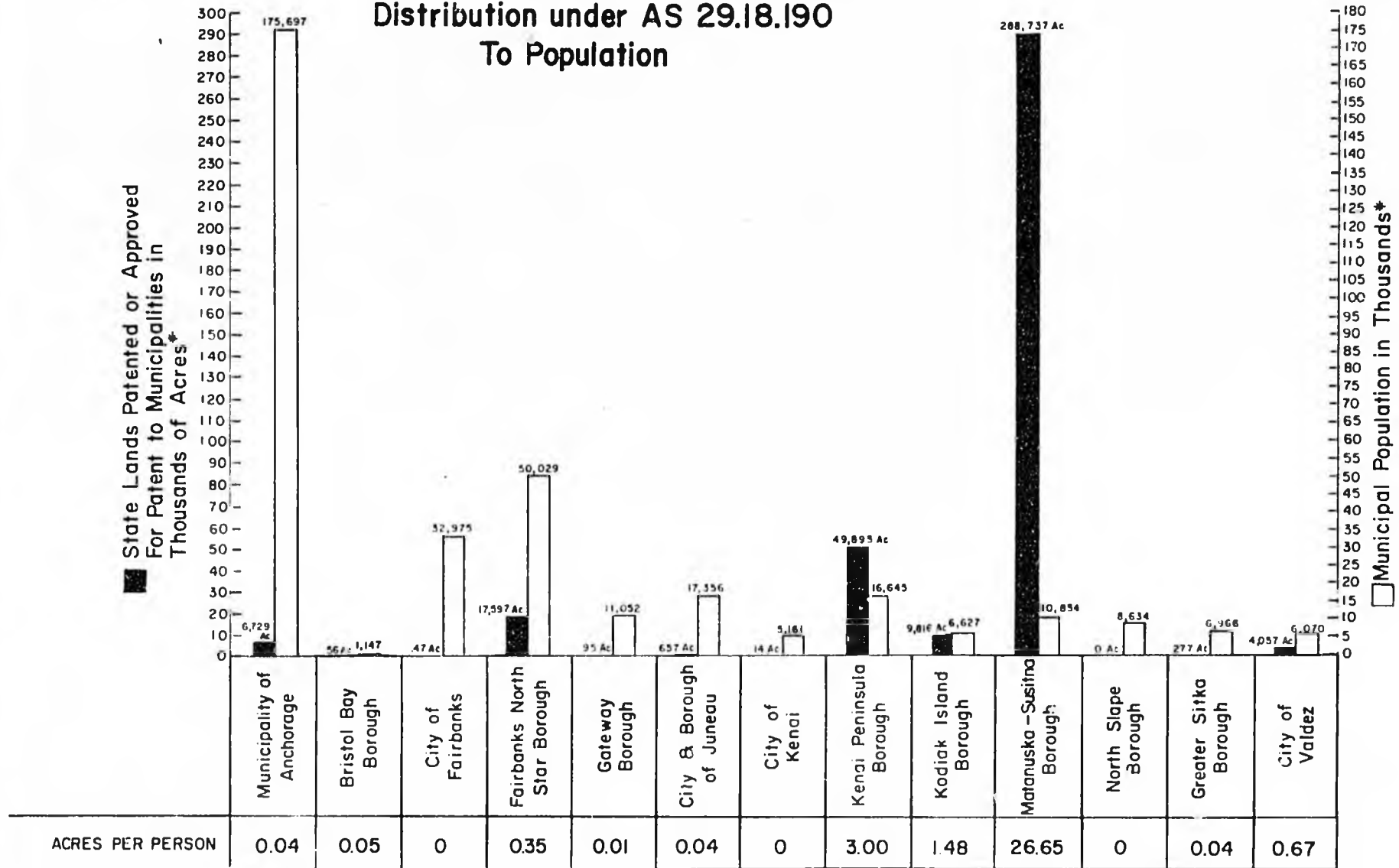
Second Class Cities

Clark's Point	98	1971
Doering	87	1970
Delta Junction	892	1960
Dionede	90	1975
Eagle	172	1901
Eek	195	1970
Ekwok	109	1974
Elin	205	1970
Emronak	545	1964
Fort Yukon	637	1959
Fortuna Lodge	200	1970
Gambell	412	1967
Golovin	118	1971
Goodnews Bay	248	1972
Grayling	167	1969
Holy Cross	212	1968
Hooper Bay	556	1966
Houston	170	1966
Hughes	98	1973
Ikuslia	207	1969
Kachemak	151	1961
Kaktovik	141	1971
Kaltag	240	1969
Kiana	314	1964
Kivalina	208	1969
Kobuk	60	1973
Kotlik	284	1970
Kotzebue	2,431	1958
Koyuk	127	1970
Koyukuk	124	1973
Kupreanof	42	1975
Kwethluk	409	1975
Larsen Bay	111	1974
Lower Kalskag	195	1969
Manokotak	230	1970
McGrath	296	1975
Mokoryuk	209	1969
Mountain Village	513	1967
Napaklak	296	1970
Napaskiak	210	1971
New Stuyahok	230	1972
Nawhalen	89	1971
Nightmute	123	1974
Nikolai	120	1970
Nondalton	226	1971
Noorvik	527	1964
Nuiqsut	140	1975
Nulato	330	1963
Old Harbor	327	1966
Ouzinkie	173	1967
Pilot Station	315	1969
Platinum	65	1975
Point Hope	384	1966
Port Alexander	36	1974
Port Heiden	66	1972
Port Lions	227	1966
Quinhagak	369	1974
Ruby	155	1974
Russian Mission	138	1970
Saint Michael	222	1969
The Aleut Community of St. Paul Island	456	1971
Sand Point	509	1966
Savoonpa	38	1969
Saxman	272	1930
Scammon Bay	221	1967
Shageluk	172	1970
Shaktolik	160	1969
Sheldon Point	136	1974
Shishmaref	309	1969
Shungnak	175	1967
Stebbins	272	1969
Tunana	447	1961
Teller	219	1963
Tenakee Springs	101	1971
Tojvak	419	1969
Toksook Bay	317	1972
Tuluksak	202	1970
Turunak	291	1975
Unalakleet	577	1974
Upper Kalskag	104	1975
Walwright	441	1962
Wales	134	1964
Wasilla	747	1974
White Mountain	89	1969
Whittier	186	1969

Organized Under Federal
Law

Netlakatla 1,051 1944

Relationship of Municipal Land Distribution under AS 29.18.190 To Population



* These figures based on data found elsewhere in this report.

(10)

ACTIVITY FOR MONTH ENDING <u>October 24, 1976</u>				CURRENT TOTALS		
GRANT	APPLIED FOR	TENTATIVE APPROVAL	PATENT	APPLIED FOR	TENT. APPROVAL	PATENT
General Grant	*97,059.00	0	209.92	67,612,119.81	16,086,927.09	19,168,144.82
Mental Health	0	0	0	1,017,550.06	186,919.22	787,590.86
Community Grant	0	0	0	83,612.99	11,957.03	10,215.96
University Grant	0	0	0	99,303.32	0	99,414.18
Univ.-Tanana	0	0	0	11,371.81	0	11,210.96
Forest Grant	0	0	0	37,208.63	15,169.67	3,881.97
School Grant	0	0	0	109,211.19	0	101,562.26
TOTAL IN ACRES	97,059.00	0	209.92	68,970,377.81	16,300,973.01	20,182,021.31

ADJUSTMENTS:

*Amend to include 97,059.00 acres
 Ref: S-1573, F-492 - 1230.00 acres
 S-1581, F-600 - 11,040.00 acres
 S-1582, F-601 - 21,440.00 acres
 S-1584, F-598 - 1079.00 acres
 S-1585, F-609 - 500.00 acres
 S-1586, F-608 - 9600.00 acres
 S-1587, F-607 - 20,390.00 acres
 S-1569, F-488 - 13,000.00 acres

S-1570, F-489 - 11,520.00 acres
 S-1571, F-490 - 5,760.00 acres
 S-1572, F-491 - 1,450.00 acres

BOROUGH LAND ACTIVITY REPORT

ACTIVITY FOR THE MONTH ENDING <u>October 24, 1976</u>				CURRENT TOTALS		
BOROUGH	APPLIED FOR	APPROVED	PATENT	APPLIED FOR	APPROVED*	PATENT*
Greater Anchorage Area Borough	0	0	0	15,496.42	2,475.11	3,960.81
Bristol Bay Borough	0	0	0	56.13	0	56.13
Gateway Borough (Kotchikan Area)	0	0	0	95.00	95.00	0
Fairbanks North Star Borough	0	0	0	68,630.57	11,283.51	6,313.78
City & Borough of Juneau	0	0	0	657.07	0	657.07
Kenai Peninsula Borough	0	0	0	142,706.41	36,906.36	12,988.37
Kodiak Island Borough	0	0	0	36,773.65	7,695.29	2,120.67
Matanuska-Susitna Borough	40.00	0	0	386,175.56	205,183.84	83,553.34
Greater Sitka Borough	0	0	0	502.06	0	277.06
Haines Borough	0	0	0	16.68	0	16.68
North Slope Borough	0	0	0	197,354.95	0	0
TOTAL IN ACRES	40.00	0	0	848,469.50	263,639.11	109,943.91
TOTAL IN XXX ACRES	* Figures in "Approved" and "Patent" columns are separate, and must be combined to reach the cumulative total of lands approved to a municipality.					

CITY LAND ACTIVITY REPORT

ACTIVITY FOR THE MONTH ENDING <u>Oct. 24, 1976.</u>				CURRENT TOTALS		
City XXXXXXXXXX	APPLIED FOR	APPROVED	PATENT	APPLIED FOR	APPROVED*	PATENT*
Fairbanks	0	0	0	.47	0	.47
Valdez	0	0	0	8,128.00	4,057.00	0
St. Mary's	0	0	0	27,000.00	0	0
Homer	0	0	0	15.00	15.00	0
Girdwood	0	0	0	,182.71	0	292.58
Kenai	0	0	0	13.74	13.74	0
Houston	0	0	0	167.50	167.50	0
Cordova	0	0	0	208.05	0	0
*Figures in "Approved" and "Patent" columns are separate, and must be combined to reach the cumulative total of lands approved to a municipality.						
TOTAL IN ACRES	0	0	0	36,715.47	4,253.24	293.05

(13)

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

JAY S. HAMMOND, GOVERNOR

OFFICE OF THE COMMISSIONER

POUCH M - JUNEAU 99811

May 2, 1977

The Honorable Lisa Rudd
Chairman, House Community and
Regional Affairs Committee
Pouch "V"
Juneau, Alaska 99811

Dear Representative Rudd:

In response to several questions from members of your committee concerning the necessity for action on your committee substitute for HB 133, I thought it appropriate to document those needs and explain some of the significant problems if the Legislature does not act on this bill this session.

As you know, this bill represents a compromise consensus among the State and most of the major municipalities within the state to finally establish a "settlement" of the existing, outmoded land selection legislation passed 14 years ago. Hammering out comprehensive legislation of this magnitude is not an easy task, but the State and the municipalities have been doing just that since last August. Like you, we wish the bill had been in this form earlier in the session, however, that was simply not possible considering the tremendous diversity of needs that had to be met for the many varied communities involved. The bill before you represents a rational compromise for all parties and testimony has been offered in its support by virtually all municipalities involved.

Below are listed the seven reasons why the State and the municipalities feel it imperative for the Legislature to act this session on the municipal land selection bill.

1. Judicial action--The State is presently being sued by two municipalities concerning interpretations of the original act. If the Legislature does not act this session, some judge will interpret the Legislature's intention of 14 years ago. Why leave to the judicial process the role of interpreting an outdated land selection law when a document of settlement exists with which all parties concur?

2. Land exchange mandates--Under the terms of the Cook Inlet land exchange, the State must identify large acreages of land for conveyance to that regional corporation. Without the vested entitlement rights which this legislation would provide, the Kenai and Manuskwa-Susitna Boroughs will be at a very significant disadvantage during the process by which the State and Cook Inlet Region determine which lands should go into private ownership. This problem could be critical to these two municipalities.

3. Further exchanges prevented--Both the villages of Eklutna and Seldovia, which have selected large portions of Chugach and Kachemak Bay State Parks, respectively, have approached the State seeking to initiate a land exchange to "trade out" of these State Parks. Both the Legislature and the Administration are receptive to these approaches, however, without a specific land entitlement defined for the municipalities in whose borders these lands lie, no such exchange is possible. These corporations have indicated an increasing reluctance on the part of some members of their boards of directors that their private corporate ownership of these parks may ultimately be more favorable to them than such an exchange. If we cannot initiate such exchanges in the near future while these corporations are interested, we may foreclose forever the opportunity of such exchanges.

4. Land disposals halted--Some municipalities, particularly the Kenai Borough, have indicated that they will vigorously object, and may even consider legal action, to prevent the State from classifying or disposing of state lands within their boundaries until such time as they receive a specific land entitlement. Such municipalities have few alternatives since without a specific entitlement state land disposals may be robbing them of land entitlement rights which they may already have under the original legislation.

5. National forest land selection--The Department of Natural Resources has begun an intensive program to identify and select the majority of our remaining entitlement within the National Forests. This will have profound impact upon Southeast Alaska, particularly the Boroughs of Juneau, Ketchikan and Sitka. Under existing law, these three communities combined possess an entitlement of only about 1,000 acres. The present bill would grant them a total of 32,000 acres. Without legislative action this session, these communities will not know their ultimate land entitlement since, under existing law, they are entitled to only 10 percent of the vacant, unappropriated, unreserved land within their municipal boundaries. Thus, without legislative

May 2, 1977

action, these communities will be forced to fight amongst themselves to insure that the State selects a maximum acreage within the municipal borders of each community from which they will obtain a 10 percent entitlement. This would be the very worst environment within which the State and its forest communities could make the decisions for future state selection.

6. Effective resource management stopped--The municipalities have been waiting 14 years to receive their land. Without legislative action, a continuation of this lack of coordination and proper land management will continue. Under existing law, the State and the municipalities are forced to become protagonists in a battle for land ownership. At a time when State and municipal cooperation in land and resource management is so desperately needed, and when a document has been agreed upon to provide such coordination, the continuance of the conflicts engendered under the original legislation is simply untenable.

I hope this will convey some of the urgency which both the State and the municipalities feel with respect to solving this longstanding problem. Eight months ago no one would have thought that rational legislation could have been drafted which would be supported by all parties--we trust the Legislature will see fit to pass that legislation this session.

Sincerely,



Michael C.T. Smith
Assistant Commissioner

cc: The Hon. Sally Smith, Vice Chairman
The Hon. Al Ose
The Hon. Randy Phillips
The Hon. Kris Lethin
The Hon. Tim Kelly
The Hon. Merle Snider
The Hon. Bill Miles
The Hon. Nels Anderson

ANALYSIS OF SENATE C&RA VERSION OF HB 133

This CS, passed out 5/25/78, contains 4 main changes from the Senate Resources version:

Sec. 29.18.201
P. 1

1). General grant land entitlement for Anchorage is changed. Anchorage is increased from 20,865 to 44,893 acres. The increase for Anchorage is based on the Municipality's argument that their previous entitlement did not take into account 240,893 acres selected by the state in the Anchorage area but not yet given formal approval by the Feds. Anchorage should receive 10% of that land as well.

This land is not usable by the municipality because it is primarily on the back side of the Chugach Mts., however, it does have the advantage of (1) qualifying the municipality to receive "deficiency payments;" and (2) allowing for the possibility of selecting land which may be made available at a future date in the area of Ft. Richardson and Elmendorf.

The State, in a letter to Senator Orsini dated May 19, 1978, commented on Anchorage's argument for more land. Mike Smith stated the 240,893 acre figure is erroneous because it includes roughly 72,000 acres which have been double-filed over the years. This leaves only 168,000 acres for the total entitlement of 37,665 acres for Anchorage.

I was not able to get anyone to tell me whether or not any other boroughs may have the same situation within their boundaries, ie, where the state has selected additional land but not given the borough credit for it in its entitlement computations. Presumably, it is up to each municipality to sleuth out the real story and present it to the legislature.

Sec.
29.18.204(g)
P. 5

(2) The development of the concept of lands "appropriate" for municipal purposes. On page 5, Sec. 204 (g), the criteria for municipal selection is broken out as follows:

- (1) Land suitable for residential, commercial and industrial needs; and
- (2) Other responsibilities of the local government, including but not limited to, support of municipal services,; education; local transportation; private recreation; public recreation, natural, historical and archaeological areas of local concern; and other responsibilities authorized or delegated by the state to the municipality.

What is new is 204 (g)(1). This comes into play in the sections pertaining to selection of trust lands and payments in lieu of land.

Sec.29.18.205 (3) Trust Lands. This section has been restricted somewhat
P. 6 as to what municipalities can take advantage of trust lands
selection.

There are apparently a substantial amount of trust lands available in Anchorage, 10,300 acres, some of which would be "appropriate" for municipal selection. Some Southeast communities also could not get close to fulfilling their entitlement without access to trust lands. The new elements therefore are: (1) a municipality's entitlement must be less than 1 1/2 acre/capita before it can qualify to select trust lands; and (2) the trust boards have no approval or disapproval authority.

The Senate Resources version had given the option of selecting trust lands to all municipalities, given approval by the appropriate trust board. The Senate C&RA version has precluded some municipalities from selecting trust lands where land is not a problem, while allowing Anchorage and Southeast where there is an apparent land crunch, to select trust lands without the risk of being disapproved by the trust boards.

The DNR is to trade land of equal value to the trusts for those trust lands selected by municipalities. The trust boards must agree to the transfer. If they do not agree, the DNR keeps trying until they do. Identification of lands suitable for trade is to be accomplished within 6 months of a municipal selection. In Mike Smith's letter of May 19, he states no time limit should be set for this land exchange because he feels that the work load involved in the identification of all these alternative suitable lands would be more than the department could handle.

Sec.29.18.207 (4) Payment for Land Deficiency. This is a difficult
P. 9 + 10 section to explain.

The committee was working with 4 things here:

- (1) The fact that Anchorage cannot fulfill its entitlement in land regardless of whether it has a 20,000 acre entitlement or a 45,000 acre entitlement;
- (2) The argument that Anchorage has not received anywhere near its equitable entitlement given its large population;
- (3) The possibility that Kodiak will not be able to fulfill its entitlement given the extensive top fillings on their selections by area Native corporations;
- (4) The administration's position that the total payments to all communities must not exceed \$20 mil and that the amount to be received by any one municipality should not be more than \$10 million. (Mike Smith's letter of 5/19/78) It is estimated only Anchorage and Kodiak would be qualifying for payments.

Under this section a municipality may only receive a payment if it meets one of two criteria: It either cannot fulfill its entitlement because there are not sufficient "suitable/appropriate" lands available, or because those lands have been conveyed to a Native corporation under ANCSA.

By the first criteria, a municipality with an entitlement of less than 1/3 acre per capita of land "suitable for residential, commercial and industrial needs" (204(g)(1)), can receive \$1,000/acre for that land which is not appropriate as described above. The total payment; to any one municipality may not be more than \$9,000,000.

The way this subsection (b) is worded it appears that Anchorage will be credited for 60,000 acres. Less any appropriate land under 204(g)(1), say, approximately, 20,000 acres.

$$\begin{array}{r} 1/3 \times 180,000 = 60,000 \\ -20,000 \text{ selectable} \\ \hline 40,000 \times \$1,000/\text{acre} = \$40,000.00 \end{array}$$

9,000,000 limit; 15,000 acres payment request
25,000 acres to be selected later

A \$9 million limit encourages Anchorage to request payment for only 9,000 acres or at the most 15,000, leaving 25,000 still available for selection should more land become available. There is no time limit for selecting land. DNR has mentioned that land from Elmendorf and Ft. Rich may come available in the future.

Subsection (c) addresses the situation in Kodiak: If a municipality is unable to select its full entitlement because its lands were ultimately conveyed to a Native corporation under ANCSA it may request payment at \$1,000 per acre for a maximum of 8,000 acres. \$1,000,000/FY; \$8,000,000 total.

In lieu payments received under this subsection (c) are deducted from the total entitlement. Not so for subsection (b); there is no deduction.

I believe the rationale for this difference is that in Kodiak there is other land available although it is not particularly appropriate. In Anchorage there is no other land available.

OTHER CHANGES IN THE SENATE CRA COMMITTEE SUBSTITUTE ARE:

Sec.29.18.212
P. 13

1) The definition of vacant, unappropriated state land is changed to accommodate "appropriate" land for municipal purposes as outlined in 204 (g)(1).

Sec.38.05.321
(b) and (c)
P. 16

2) The section on agricultural lands is tightened up. P. 16, lines 5-7 bring in the provisions of 38.05.069 when the state determines to transfer rights other than agricultural rights to a municipality. This section seems to say that the public auction procedure will come into play here. The intent of putting in this language was to have the Director use procedures now in effect for other lands. Without this there would be too much discretionary authority to the Director.

Also, the date of April 1, 1978 is inserted as a grandfather clause for selections already made by a municipality. This date is apparently to avoid any last minute land transfers by the Department between the date of passage and the effective date. This is also intended to shield any municipalities who have gotten land under different auspices.

Some of the testimony given at the Senate CRA final hearing may be of interest.

The municipality of Juneau pointed out that emphasis is placed on developable land. Reference is constantly made to 204 (g)(1). Municipal selections need not be just for development. Juneau plans several selections which would not be developable.

Stewart Bowdin of the Bristol Bay Borough testified the Bristol Bay Borough is in dire need of land for utility purposes such as for sanitary landfills. They preferred the entitlement contained in the House Finance version, but would be content with that contained in the Senate CRA CS.

Phil Holdsworth, representing the Southeastern Conference of municipalities, noted that a formula based on per capita was just aimed at certain municipalities. He was referring to the qualifying formula for selecting trust lands. Before being amended at the close of the meeting, this section limited qualification to 1/2 acre per capita. Holdsworth was concerned that this left out Southeastern communities where there was a real land shortage due to the presence of trust lands within municipal boundaries.

Pat Conheady spoke for DNR and although he was not able to finish his testimony before the motion was made to move

the bill, he did make four points:

- 1) DNR does agree that trust land selection should be an option for all municipalities;
- 2) The Anchorage entitlement should be 37,665 acres.
- 3) The criteria of lands suitable for development contained in 204(g)(1) should be eliminated. The provision is open to interpretation and could be interpreted to allow all municipalities to collect a payment in lieu of land. DNR suggests returning to a general definition of vacant, unappropriated, appropriate lands since there are other legitimate uses of municipal land than just strictly for development.
- 4) The date of January 1, 1981 (p.9, line 20) should be eliminated. Conheady stated with regard to the 6A selections there is an uncertainty as to the time involved in their turnover to the state; enough so that the 1.5 acre criteria could open it up to payments to more municipalities.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

323 E. 4TH AVENUE - ANCHORAGE 99501

May 19, 1978

The Honorable Joseph Orsini
Chairman
Senate Community and Regional Affairs Committee
Pouch V
Juneau, AK 99811

Dear Joe:

Following the completion of testimony before your committee on the Municipal Land Selection Bill (SCS CSHB 133), I felt it appropriate to forward some comments from the Administration based upon information brought out at the hearings, as well as discussions with the representatives of individual municipalities.

As I suggested at the hearings, and as has been echoed by several of the municipalities, we feel that it is important that the Senate Resources Committee Bill be used as the "mark-up vehicle." While your committee may wish to make several amendments to the legislation, the Resources Committee Substitute represents the most finely honed version to date and is certainly the most suitable version upon which to build at this time.

In reviewing the May 5, 1978 letter to you from Theodore D. Berns of the Anchorage Municipality, I believe several comments on the suggested amendments in Exhibit D of that letter are appropriate. With respect to suggested amendments nos. 3 and 5, Ted is addressing the need to clarify the difference between land that is merely "vacant, unappropriated, unreserved," and land which is vacant, unappropriated, unreserved which is actually appropriate for municipal ownership. In other words, there might be mountaintops, glaciers, and coastlines which are by definition vacant, unappropriated, unreserved, yet are clearly not appropriate for municipal ownership. The State supports a clarification of this issue, but we would do so in a slightly different manner than the language suggested in Exhibit D of Ted's letter.

May 19, 1978

We suggest that the definitions section (29.13.212) be amended by the addition of a new definition no. (1) which would read:

- (1) "Appropriate vacant, unappropriated, unreserved land" means vacant, unappropriated, unreserved land which meets the criteria for municipal selection under Section 204(g) of this chapter;

In referring to Section 204(g) the definition incorporates the specific municipal criteria found in that subsection and therefore clearly differentiates between all vacant, unappropriated, unreserved land and land in that category which is actually appropriate for municipal ownership. By using this new definition, the suggested amendments nos. 3 and 5 in Exhibit D of Ted's letter may be changed to merely refer to this definition. Specifically, with respect to suggested amendment no. 3 on page 2, line 28 (SCS CSRS 133) the language would read:

"or to that portion of an entitlement that cannot be satisfied by such date due to a lack of appropriate vacant, unappropriated, unreserved land."

The intent of suggested amendment no. 5 may then be manifested by adding on page 9, line 1, between the words "the" and "vacant," the word "appropriate."

Ted's suggested Amendment no. 4 on page five, at line 12, is acceptable to the State and we would not object to its inclusion in the bill. Likewise, with respect to suggested amendment no. 1 on page 1, at line 17-18, the State would not object to this deletion.

Suggested amendment no. 2 on page 1, at line 24, which would increase Anchorage's entitlement by 115 percent, causes us concern. While we again question, as has Senator Hackney, when the continual spiral of increases for municipal entitlements in this legislation will end, our specific concern here is that the 240,280 acres of selected land cited as being within the Anchorage Municipality is incorrect. That figure, as brought before your committee, includes substantial "double filed" acreage--land which has been filed on for selection by the State at different times or under different selection entitlements. While an exact determination of the degree of double filing would be a very time consuming effort, our best estimate of this double filing, giving Anchorage the benefit of any doubt, is approximately 72,000 acres. Reducing the 240,000 figure by 72,000 acres leaves approximately 168,000 acres of state

*Included in
(S)CRR*

May 19, 1978

selected land. Ten percent of this total yields a figure of 16,800 acres. When added to Anchorage's existing entitlement of 20,865 acres, a more correct total of 37,665 acres is obtained.

Although not listed in Exhibit D of Ted's May 5 letter, Anchorage has requested that language found in Section 29.18.210(c) of the House bill (CSHB 133 (Finance) am) be reinserted in the Senate version (page 12, lines 8-11). This language, which refers to land conveyed to the State under Section 12(d)(2) of Public Law 94-204 is acceptable to the State provided that the ultimate entitlement for Anchorage is not in excess of the 37,665 acre figure addressed above.

With respect to Section 29.18.207, concerning payments in lieu of land, I have indicated several times that the Administration feels that the cumulative total of payments to all communities under this section should not total more than 20 million dollars. At present it appears that only the municipalities of Anchorage and perhaps Kodiak will qualify for payments under this section. I also understand that these municipalities are amenable to amendatory language, probably in Subsection (f), which would limit the total amount of in lieu revenue payments any one municipality could receive to a maximum of 10 million dollars. If language is included in that subsection which limits the total cumulative payments to all municipalities under this act to a total of 20 million dollars, and limits the total cumulative payments any one municipality can receive under this act to 10 million dollars, the Administration can support this section. Our suggested language is as follows:

Once the total of cumulative in lieu revenue payments to a municipality under this section has reached 10 million dollars, there exists no obligation on the part of the State to provide further in lieu revenue payments to that municipality for any of its remaining entitlement. Once the total accumulative in lieu revenue payments to all municipalities under this section has reached 20 million dollars, there exists no obligation on the part of the State to provide further in lieu revenue payments for any remaining entitlement of any municipality.

The purpose of this language is to ensure that the artificially inflated entitlements of communities, where appropriate state land for municipal selection may not exist, do not return to haunt the State for additional revenue payment in the future. The remaining entitlements would, however, remain effective should additional appropriate land be received by the State within a municipality.

Joseph Orsini

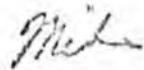
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May 19, 1973

A major problem which we have all wrestled with throughout consideration of this legislation has been that of the trust lands. Your suggestion that appropriate trust lands be made available for municipal selection without the need for concurrence of the respective trust board has considerable merit in that it would significantly speed up the conveyance process. There are, however, two corollary considerations which must be addressed. First, if the trust boards are not to be formally approached for their approval, trust land selected by a municipality should be treated no differently than general selection lands selected by a municipality. That is, they should be subject to the same processes found in subsections (e) through (i) of Section 204. Second, while there may be a requirement to identify other lands of equal value for exchange with the municipally-selected trust lands, no specific time limit for identification or culmination of an exchange should be given. If the trust boards do not have approval authority, the rapidity of the conveyance process would simply outstrip the capability of the Department of Natural Resources to formally execute exchanges. Specific identification and accounting of all trust lands conveyed to municipalities would of course be kept for the execution of exchanges at a later time.

I would like to take this opportunity to thank you for your diligent and detailed review of this legislation. If I can supply any further information please do not hesitate to let me know.

Sincerely,



MICHAEL C. T. SMITH
Assistant Commissioner

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

11TH FLOOR, STATE OFFICE BLDG.
POUCH M - JUNEAU 99901

April 19, 1973

Honorable Clem Tillion
Alaska Senate
Pouch "V"
Juneau, Alaska 99811

Dear Senator Tillion:

This letter is in response to your request for information about the number of acres of land the State of Alaska owns within the municipality of Anchorage which could be made available to fulfill Anchorage's municipal land entitlement of 20,865 acres.

The figures below, for lands to which the State presently has either patent or tentative approval, are for lands which are not in Chugach State Park and are not affected by Eklutna Native Village land selections under ANCSA. The acreages listed as selected are for lands which the State has already selected and has a high probability of receiving from the federal government within the next few years. They also are not included within Chugach State Park and will not be affected by Native selections.

The lands listed as coming to the State under the Cook Inlet Land Exchange will definitely come to the State, and are generally of a nature more suitable for municipal management than State management.

<u>Types of Land</u>	<u>Acres</u>	
I. General Selection		
A. Patent and Tentative Approval	6,728	
B. Selected	240,280	
		<u>247,008</u>
II. Trust		
A. Patent or Tentative Approval	28,475	
B. Selected	6,998	
		<u>35,473</u>

	<u>Types of Land</u>	<u>Acres</u>	
III.	Cook Inlet Land Exchange		
	A. Goose Lake	20	
	B. Point Woronzoff	325	
	C. Campbell Tract	4,892	
	D. Point Campbell	1,282	
			<u>6,519</u>
IV.	Totals		
	A. Presently Available for Early Transfer	6,720	
	B. Available After Exchange for Trust Lands*	28,475	
	C. Available Upon Receipt via Cook Inlet Land Exchange	6,519	
			<u>41,714</u>
	D. Selected Lands Available When Transferred From Federal Government	247,278	
V.	Anchorage's Existing Situation		
	A. Entitlement	20,855	
	B. Patented or Approved to Anchorage	6,723	
	C. Remaining Entitlement	14,137	
	D. Remaining Entitlement After Conveyance of Existing Lands Available for Early Transfer	7,417	

It should also point out that in the future the State will certainly receive substantial land from the Elmendorf and Fort Richardson military bases within the municipality. In most cases, these lands will be more suitable for municipal than State ownership. As an example, as part of their land exchange entitlement Cook Inlet Region, Inc., is currently working with the Departments of Interior and Defense, as well as the State, to have a parcel of about 5,700 acres removed from Fort Richardson. Since portions of that parcel are not suitable for private ownership, the State will seek to receive title to those areas (e.g., green belts, aquifer recharge, etc.).

*Approx. 3,000 acres are prime lands within the Anchorage Bowl.

Honorable Clem Tillion

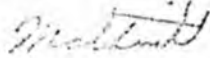
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April 19, 1978

Because of their location and local importance, these lands would be best conveyed to the Anchorage municipality for management. The acreage would probably be a minimum of 500 to 800 acres.

I hope this information answers your requests. Please let me know if you have any questions.

Sincerely,



Michael C. T. Smith
Assistant Commissioner

HOUSE BILL NO. 133
Municipal Land Selection
COMPARISON OF COMMITTEE SUBSTITUTE BILLS

House C&RA CS	House Finance CS am	Senate Resources CS	Senate C&RA																																																																																												
<p><u>Sec. 1: Statement of Purpose:</u> short statement "...provide for timely patent."</p> <p><u>Sec. 202 Determination of Entitlement</u></p> <table border="0"> <tr><td>(a) Anchorage</td><td>20,865</td></tr> <tr><td>Juneau</td><td>13,600</td></tr> <tr><td>Sitka</td><td>9,200</td></tr> <tr><td>B B Boro</td><td>1,940</td></tr> <tr><td>Fairbanks</td><td>112,000</td></tr> <tr><td>Haines</td><td>1,080</td></tr> <tr><td>Kenai</td><td>155,780</td></tr> <tr><td>Ketchikan</td><td>9,200</td></tr> <tr><td>Kodiak</td><td>45,200</td></tr> <tr><td>Mat-Su</td><td>355,210</td></tr> <tr><td>North Slope</td><td>645</td></tr> </table> <p>(b) Entitlement for cities 10% of VCU land.</p> <p>(c) Director to determine city entitlement w/in 6 months.</p> <p>(d) Vested property rights as in 205 & 208.</p> <p>(e) Time limit on selections: 2yrs following deadline of Statehood Act, Sec. 6(a) & (b) except no time limit on in lieu payments.</p>	(a) Anchorage	20,865	Juneau	13,600	Sitka	9,200	B B Boro	1,940	Fairbanks	112,000	Haines	1,080	Kenai	155,780	Ketchikan	9,200	Kodiak	45,200	Mat-Su	355,210	North Slope	645	<p>"...provide for expeditious patent; in lieu payments for less than full entitlement to assist with costs of acquisition of land to meet the public needs."</p> <table border="0"> <tr> <th style="text-align: left;"><u>Sec. 201 Determination of Entitlement</u></th> <th style="text-align: left;"><u>Sec. 202 In-Lieu Entitlements*</u></th> </tr> <tr><td>Anchorage</td><td>20,865</td></tr> <tr><td>Juneau</td><td>440</td></tr> <tr><td>Sitka</td><td>25</td></tr> <tr><td>B B Boro</td><td>1,940</td></tr> <tr><td>Fairbanks</td><td>112,000</td></tr> <tr><td>Haines</td><td>1,080</td></tr> <tr><td>Kenai</td><td>155,780</td></tr> <tr><td>Ketchikan</td><td>295</td></tr> <tr><td>Kodiak</td><td>45,200</td></tr> <tr><td>Mat-Su</td><td>355,210</td></tr> <tr><td>North Slope</td><td>645</td></tr> <tr><td></td><td>89,850</td></tr> </table> <p>* New figures by Meekins formula using population and total acreage within a municipality.</p> <p>Municipality may choose this option; but must do so within 60 days; and must dispose of 30% of this extra land to private ownership, residential or commercial. There is an opt out clause for Anchorage.</p> <p><u>Sec. 203 Determination of Entitlement to Cities.</u> Same as (b) and (c) from House C&RA 202.</p> <p><u>Sec. 204 Status of Entitlements.</u> Same as (d) and (e) from House C&RA 202.</p>	<u>Sec. 201 Determination of Entitlement</u>	<u>Sec. 202 In-Lieu Entitlements*</u>	Anchorage	20,865	Juneau	440	Sitka	25	B B Boro	1,940	Fairbanks	112,000	Haines	1,080	Kenai	155,780	Ketchikan	295	Kodiak	45,200	Mat-Su	355,210	North Slope	645		89,850	<p>Same as House Fin.</p> <p><u>Sec. 201 Determination of Entitlement.</u></p> <table border="0"> <tr><td>Anchorage</td><td>20,865</td></tr> <tr><td>Juneau</td><td>13,600</td></tr> <tr><td>Sitka</td><td>9,200</td></tr> <tr><td>B B Boro</td><td>1,940</td></tr> <tr><td>Fairbanks</td><td>112,000</td></tr> <tr><td>Haines</td><td>1,080</td></tr> <tr><td>Kenai</td><td>155,780</td></tr> <tr><td>Ketchikan</td><td>9,200</td></tr> <tr><td>Kodiak</td><td>56,500</td></tr> <tr><td>Mat-Su</td><td>355,210</td></tr> <tr><td>North Slope</td><td>89,850</td></tr> </table>	Anchorage	20,865	Juneau	13,600	Sitka	9,200	B B Boro	1,940	Fairbanks	112,000	Haines	1,080	Kenai	155,780	Ketchikan	9,200	Kodiak	56,500	Mat-Su	355,210	North Slope	89,850	<p>*... provide payment for land for less than full entitlement in appropriate, vacant, unappropriated, unreserved land.</p> <p><u>Sec. 201 Determination of Entitlement.</u></p> <table border="0"> <tr><td>Anchorage</td><td>44,843</td></tr> <tr><td>Juneau</td><td>13,600</td></tr> <tr><td>Sitka</td><td>9,200</td></tr> <tr><td>B B Boro</td><td>1,940</td></tr> <tr><td>Fairbanks</td><td>112,000</td></tr> <tr><td>Haines</td><td>1,080</td></tr> <tr><td>Kenai</td><td>155,780</td></tr> <tr><td>Ketchikan</td><td>9,200</td></tr> <tr><td>Kodiak</td><td>56,600</td></tr> <tr><td>Mat-Su</td><td>355,210</td></tr> <tr><td>North Slope</td><td>89,850</td></tr> </table> <p><u>Sec. 202 Determination of Entitlement to Cities.</u> Same.</p> <p><u>Sec. 203 Status of Entitlements.</u> (b) 2 year time limit past fulfillment of Sec. 6(a) does not apply where there is a shortage of "appropriate" land available.</p>	Anchorage	44,843	Juneau	13,600	Sitka	9,200	B B Boro	1,940	Fairbanks	112,000	Haines	1,080	Kenai	155,780	Ketchikan	9,200	Kodiak	56,600	Mat-Su	355,210	North Slope	89,850
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- * 1. Senate Finance CS returns Kodiak's entitlement to 56,600 acres.
- 2. Senate Finance CS inserts a section on Determination of Entitlements for Newly Incorporated Municipalities which was included in Senate C&RA version, but at the end of the bill Section 4.
- 3. Senate Finance adds a provision to Status of Entitlements providing how new municipalities are to receive their entitlements. (p.3)

House C&RA CSSec. 204 Fulfillment of Land Entitlements.

- (a)(b)(c) Same
- (d) no classification of state land more than 3,200 acres is effective unless municipality agrees with classification.
- (e) Cooperative planning process; Director approval or disapproval within 9 months; patent within 3 months.
- (f) State concerns.
- (g) Approval/disapproval procedure.

House Finance CS amSec. 205 Fulfillment of Land Entitlements.

- (a)(b)(c) Same
- (d) ...this subsection only applies to state lands before the effective date of this Act.
- (e) Cooperative planning process Deleted. *
Director disapproval Deleted.
- (f) State concerns Deleted. *
Director has 9 months and 3 months for approval and patent.
- (g) Municipality may appeal through superior court.

Sec. 206 Trust Lands. *

- (a) authorizes selection of trust lands provided they are VUU within the definitio of the Act.
- (c) DNR to determine approval of these selections.
- (d) approval of trust board required.
- (e) DNR to designate replacement land of equal value within 3 years.

Senate Resources CSSec. 204 Fulfillment of Land Entitlements.

- (a)(b)(c) Same
- (d) Restored to House C&RA version.
- (e) Cooperative planning process Restored.
Director approval/disapproval Restored.
- (f) Director has 9 months and 3 months for approval & patent
- (g) State concerns.
- (h) Approval/disapproval procedure

Sec. 205 Trust Lands. *

- (a) Same
- (c) approval of DNR deleted.
- (d) Same
- (e) DNR to identify replacement land within 6 months.
Trust boards must approve.

Senate C&RA CSSec. 204 Fulfillment of Land Entitlements.

- (a)(b)(c) Same
- (d) Same as House Finance CS.
- (e) Cooperative planning Restored.
- (f) Same as Senate Resources CS.

- (g) State concerns with emphasis on local concerns.
New language: 11 3-5 "Land considered appropriate for municipal selection is suitable & appropriate for an identifiable present or future municipal use or for disposal to private use by the municipality by sale or other means." "When the interests of the state may be protected thru conveyand of title that is less than fee simple, the munic at its option may accept the title in ucre for acre fulfillment of its entitlement."
Introduction of 204(g)(1) "lands suitable for residential, commercial, industrial needs."

Sec. 205 Trust Lands. *

- (a) Municipality must have an entitlement of less than 1.5 acres/capita to qualify to select trust lands.
- (c) approval of DNR Deleted.
- (d) Approval of trust boards Deleted.
(d) is now DNR replacement procedure; within 6 months; trust boards must approve trade.

House C&RA CSSec. 206 Selection & Conveyance Procedure.

- (a) Selections in reasonably compact tracts; approved selections may be relinquished.
- (b) reference to ANCSA 11 (a)(2)
- (c) surveys
- (d) conditional sales & leases before patent only with consent of director
- (e) recognition of prior rts. & claims.

Sec. 208 In-Lieu Payments.

- (a) Establish AK municipal land acct.
- (b) Qualifications: Director certifies status of land selections by Aug. 1.

Ratio of remaining entitlement to the amount of VUU land within the municipality is greater than 2:1 or there is less than 1,000 acres VUU land within the municipality.

Payment in lieu is an option.

No payment to Juneau, Sitka or Ketchikan until after cumulative approps. in land acct are \$12 mil or until 1984.

- (c) Each municipality is not to receive more than 15% of its entitlement/yr.

Max 10,000 acres/yr.

Payment: 10,000 acres -- \$1,500/acre
 10,001-20,000 -- 750/acre
 20,001 + -- 350/acre

Sec. 210 Authorization for Land Exchanges.

DNR can exchange lands of equal value if municipality prefers.

Sec. 212 Public Purpose Expansion Needs

- (a) Where needed, DNR to select federal lands for municipal purposes.
- (b) municipality to auction state lands
- (c) no limit or consideration needed to transfer lands.
 lands transferred are credited agst entitlement.
 except land conveyed under (d)(2) not credited agst municipality.

House Finance CS amSec. 207 Selection & Conveyance Procedure.

- (a) Same as House C&RA
- (b) Deleted
- (c)(d)(e) Same but renumbered

Sec. 208 In-Lieu Payments. *

- (a) thru (e) Same

- (f) ~~(\$100/person ceiling)~~ designed to prevent Anchorage from receiving well in excess of \$20 million cuz would have to take most of its entitlement in payments.

Same payment schedule

Sec. 209 Authorization for Land Exchanges.

Same

Sec. 210 Public Purpose Expansion Needs.

Same

Senate Resources CSSec. 206 Selection & Conveyance Procedure.

Same as House Finance CS.

Sec. 207 In-Lieu Payments.

- (a) thru (e) same except in (c) allowance is made for Kodiak, "...or on the number of acres which were selected and to which title was vested in another entity under (g) of this section."

- (f) \$250/capita payment ceiling.

- (g) qualification of Kodiak for payments.

Same payment schedule.

Sec. 208 Authorization for Land Exchanges.

Same

Sec. 209 Public Purpose Expansion Needs.

Same except (c) -- deleted phrase on (d)(2)

Senate C&RA CSSec. 206 Selection & Conveyance Procedure.

Same as House Finance CS

Sec. 207 Payment for Land Deficiency. *

- (a) Municipal land acct designed for Anchorage & Kodiak for payments for deficiency due to insufficient "suitable" lands; lands selected by native corporations.

- (b) qualifications: On 1/1/81 entitlement is less than 1/3 acre/capita o land suitable under 204(g)(1).
 \$1,000/acre limit to a total limit of \$9,000,000.

- (c) Kodiak - payment of \$1,000/acre for land top-filed & deeded to Native corps., \$8,000,000 limit.
 \$1 mil/yr.

- (c) is payment in lieu of land;
 (b) is not.

- (e) appropriations authorized for 4 mil/yr for (b), \$10 mil limit.

Sec. 208 Authorization for Land Exchanges.

Same

Sec. 209 Public Purpose Expansion Needs.

Same as Senate Resources

* 1. Senate Finance CS adds (g) to Sec. 207, Payment for Land Deficiency, which provides that these payments may not be made to future municipalities. New municipalities may get only land unless they at some point can convince the legislature otherwise.

House C&RA CSSec. 214 Election of Benefits.

With regard to litigation.

Sec. 216 Administration.

Regulations

Sec. 218 Definitions.Sec. 3. 38.05.321 Restriction on Disposal of Agricultural and Grazing Lands.

- (a) transfers agricultural & grazing rights only.
- (b) commissioner may determine to transfer additional rights to municipality.
- (c) section does not apply to land transferred before enactment of this act.

Sec. 4. 38.05.290

Policy of state to make maximum land available for municipalities to select.

Sec. 5. Repealer.

29.18.190, 29.18.200, 29.18.420.

House Finance CS amSec. 211 Election of Benefits.

Same with addition of *
(c) does not affect any litigation regarding the former AS 29-18.190-200 or 29.18.420.

Sec. 212 Administration.

Same

Sec. 213 Definitions.

adds mental health, school and university lands.

Sec. 3. 38.05.321 Restriction on Disposal of Agricultural and Grazing Lands.

Same as House C&RA.

Sec. 4. Statement of benefit of Sec. 2 for future municipalities; time deadlines set for implementation.Sec. 5. Repealer.Sec. 6. Report to Legislature.Senate Resources CSSec. 210 Election of Benefits.

Same as House Finance version.

Sec. 211 Administration.

Same

Sec. 213 Definitions.

adds phrase in VUU land designed for Anchorage and Kodiak situations.
11.26.28, p. 14.

Sec. 3. 38.05.321 Restriction on Disposal of Agricultural and Grazing Lands.

Grazing lands deleted.

Sec. 4. Statement of benefit of Sec. 2 for future municipalities time deadlines, 180 days.

Statement on policy of state to make maximum land available for municipal selection.

Sec. 5. Repealer.Sec. 6. Report to LegislatureSenate C&RA CSSec. 210 Election of Benefits.

Same as House Finance.

Sec. 211 Administration.

Same

Sec. 212 Definitions.

(1) "appropriate" VUU land, p. 13. *

Sec. 3. 38.05.321 Restriction on Disposal of Agricultural Land.

Grazing deleted.

Sec. 4. Future cities entitled to 10% VUU lands.

DNR has 6 months after incorp. to certify entitlements.

Sec. 5. Policy statement to make maximum land available for municipal selection.Sec. 6 Repealer.Sec. 7 Report to Legislature

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

May 4, 1977

OFFICE OF THE COMMISSIONER

POUCH M - JUNEAU 99811

The Honorable Steve Cowper
Chairman, House Finance Committee
Pouch "V"
Juneau, Alaska 99811

Dear Representative Cowper:

Re: CS for HB 133

Representative Lisa Rudd, Chairman of the House Community and Regional Affairs Committee, requested that this department provide additional information to the fiscal note for CS for HB 133. Representative Rudd was specifically interested in the amount of money which might be appropriated to eligible municipalities as payment in lieu of land titlement under Section 208 of the subject bill.

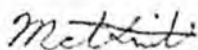
As there are several variables which would influence such estimates, firm figures are impossible to predict. However, I believe the following projections to be fairly accurate. One of the assumptions made here is that the Legislature will fund the requests of eligible municipalities in their entirety for each fiscal year.

ESTIMATED APPROPRIATIONS (Millions)

<u>FY</u>	<u>MAX</u>	<u>MIN.</u>
79	4	4
80	4	3
81	7	3
82	6	2
83	5	-
84	4	-
85	3	-
86	3	-
87	2	-
88	1	-
	<u>39</u>	<u>12.0</u>

As these figures represent the estimated maximum and minimum values, actual appropriations will undoubtedly lie somewhere between these figures and will almost surely take approximately ten years to accomplish.

Sincerely,



Michael C.T. Smith
Assistant Commissioner

ANALYSIS OF SCS CSHB 133

Assume: Average land values equal \$1,500 per acre

Population equals most recent revenue sharing data

Total Value of Land Transferred
to Municipalities Under SCS CSHB 133

1. Kenai Peninsula Borough

Entitlement = 155,780 acres
Land value = \$233,670,000
Population = 24,611

Per capita value = \$9,495 Per capita acreage = 6.33

2. Fairbanks North Star Borough

Entitlement = 112,000 acres
Land value = \$168,000,000
Population = 60,227

Per capita value = \$2,789 Per capita acreage = 1.86

3. Mat-Su Borough

Entitlement = 355,210 acres
Land value = \$532,815,000
Population = 16,724

Per capita value = \$31,859 Per capita acreage = 21.24

*5,250 acres
= 1/3 acre per
capita*

4. Ketchikan Gateway Borough

Entitlement = 9,200 acres
Land value = \$ 13,800,000
Population = 11,490

Per capita value = \$1,201 Per capita acreage = .8

5. Kodiak Borough

Entitlement = 56,500 acres
Land value = \$ 84,750,000
Population = 7,901

Per capita value = \$10,726 Per capita acreage = 7.15

6. Bristol Bay Borough

Entitlement = 1,940 acres
Land value = \$ 2,910,000
Population = 1,311

Per capita value = \$2,220 Per capita acreage = 1.48

7. City and Borough of Juneau

Entitlement = 13,600 acres
Land value = \$20,400,000
Population = 20,465

Per capita value = \$997 Per capita acreage = .66

8. Haines Borough

Entitlement = 1,080 acres
Land value = \$ 1,620,000
Population = 1,924

Per capita value = \$842 Per capita acreage = .56

9. Anchorage

Entitlement = 20,865 acres
Land value = \$31,297,500
Population = 180,863

Per capita value = \$173 Per capita acreage = .12 ^{.25}

10. North Slope Borough

Entitlement = 89,850 acres
Land value = \$134,775,000
Population = 9,140

Per capita value = \$14,333 Per capita acreage = 9.83

11. City and Borough of Sitka

Entitlement = 9,200 acres
Land value = \$13,800,000
Population = 7,650

Per capita value = \$1,803 Per capita acreage = 1.20

5-12

LISA —

You asked for the previous DNR Total estimate of land available in Anchorage.

This is from a report to Municipal League dated Nov. 4, 1976.

The latest figures Anchorage claims are in the letter distributed at the Sunday meeting.

AS

Net vacant, unappropriated and unreserved G.S. lands, by 6 month period, within boundaries of the Municipality of the Anchorage Borough.

<u>Thru</u>	<u>Column No. 1</u>	<u>Column No. 2</u>	<u>Column No. 3</u>	<u>Column No. 4</u>
	Tentative Approval Received by State (Cumulative)	Occupied, Appropriated and Reserved Lands (Cumulative Total)	Net Vacant Unappropriated and Unreserved Lands (Col. 1 minus Col. 2)	Municipal Approvals* (Cumulative)
6/30/60	-	-	-	-
12/31/60	-	-	-	-
6/30/61	-	-	-	-
12/31/61	1766	-	1766	-
6/30/62	15746	-	15746	-
12/31/62	15746	-	15746	-
6/30/63	15766	-	15766	-
12/31/63	16346	-	16346	-
6/30/64	70084	-	70084	-
12/31/64	70886	-	70886	-
6/30/65	141008	-	141008	-
12/31/65	185154	-	185154	-
6/30/66	185186	1725	183461	125
12/31/66	210474	1859	208615	259
6/30/67	210474	1859	208615	259
6/31/67	211000	2875	208125	1275
6/30/68	211005	5060	205945	3060
12/31/68	211074	5190	205884	3880
6/30/69	213730	6277	207453	6277
12/31/69	213730	7633	206097	6323
6/30/70	213730	200938	12797	6323
12/31/70	213730	200928	12802	6314
6/30/71	213730	201021	12709	6328
12/31/71	213730	201021	12709	6328
6/30/72	213730	201021	12709	6328
12/31/72	213775	201360	12415	6368
6/30/73	213775	201950	11825	6957
12/31/73	213795	201950	11845	6957
6/30/74	230746	201722	29024	6729
12/31/74	267326	255139	12187	6729
6/30/75	267326	255139	12187	6729
12/31/75	267326	255139	12187	6729
6/30/76	267326	255139	12187	6729
10/31/76	267326	255139	12187	6729

*Includes lands approved and patented to the former City of Birdwood.

Note: Columns 1 & 4 are accurate figures based on Division of Land Management Records

Explanatory Notes for Table A

Column 1 contains the cumulative total of tentatively approved ("T.A.") lands conveyed to the State of Alaska under Section 6(b) of the Alaska Statehood Act.

Column 2 is a consolidated cumulative total of occupied, appropriated and reserved lands comprised of the following:

- a. Five Classifications (Timber, Grazing, Watershed, Public Recreation and Resource Management) which cover areas not available for transfer to boroughs. Only those above classifications covering areas of Section 6(b) lands (GS) in excess of 40 acres in size have been included.
- b. Municipal approvals per date of issue.
- c. State Parks were excluded upon the effective date for that portion then under BLM T/A or patent under Sec. 6(b). Additional title received within park areas after formation was excluded in the six month period in which title was received.
- d. State Recreation areas are treated in a similar manner.
- e. State Wildlife Refuges, except for Susitna Flats State Game Refuge and Trading Bay State Game Refuge.
- f. Estimated tentatively approved Sec. 6(b) lands selected by village corporations. The totals given are only those lands selected as of December, 1973 rather than those lands within the 25 township withdrawal as of December, 1971.
- g. Estimated lands obligated under the Cook Inlet Land Trade.

Column 2 does not include mineral or oil and gas leases, tidelands, submerged lands or shorelands.

Column 3 (Column 1 minus Column 2). These figures comprise the best available State estimate of net vacant, unappropriated and unreserved lands based upon the items included above. Some items (i.e., ANSCA and Cook Inlet Trade) include variables, both in amounts and as to the areas (Matanuska, Kenai or Anchorage) in which the natives can elect to receive their lands.

Fader

NOTES OF KGB POSITION CONCERNING THE
COMMITTEE SUBSTITUTE FOR SENATE BILL 241

CSSB 241

1) Wholehearted support of the purposes to which ~~this Bill~~ is directed, i.e., "to remove uncertainties in the existing municipal land selection law of the state", to determine municipal entitlements, and to provide for expeditious transfer of lands from state to municipal ownership.

It is the policy of both the state and the Ketchikan Gateway Borough that the disposal of lands intended for residential and commercial expansion should be managed by local governments. However, in Southeast Boroughs, the 10% entitlement incorporated into the Mandatory Borough Act has failed to provide an effective means for the state to convey lands to local governments for expansion purposes. In the area's 3 most populous boroughs less than 1000 acres in total have been made available using this method. State residents in these areas, as well as throughout the state, have a right to know how much land is to be made available, to know that these lands will be adequate for their areas' future needs, and to know that local government is responsible for managing the pattern of development and timeliness and manner of conveyance of these lands to private uses. Upon thorough review of the provisions of CSSB 241 (~~HB 133~~), it is our conclusion that its enactment will rectify these current and past uncertainties.

2) The method of determining municipal entitlements in CSSB 241 (~~HB 133~~) is equitable and in keeping with the intent of the 10 percent entitlement guaranteed by the Mandatory

11/13/34
Hed
and
10/13/34

Borough Act. The entitlements for southeast boroughs located in the national forest fairly reflects the state's ultimate right to select up to 400,000 acres of land for community expansion and development purposes. There are 16,000,000 acres of forest lands in the Tongass National Forest compared to less than 5,000,000 acres in Chugach. Using this as a rule-of-thumb basis for distributing the state's national forest entitlement geographically, this would mean 310,000 acres of state selected lands would be allocated to the Southeast region. However, more than 60% of the southeast region's population reside in the 3 major boroughs located in the Tongass National Forest - Ketchikan, Juneau, and Sitka. As they are today, in the future these boroughs are likely to play even stronger roles as regional population and economic centers. An aggregate entitlement of lands designated for community expansion of 32,000 acres for these boroughs is an adequate allocation considering the existing and future land needs of these areas. This fair allocation has been arrived at jointly by the Alaska Division of Lands and those communities.

3) Finally, it is understood that the "payment in lieu of land" provisions is immediately addressed to special circumstances in other boroughs in which additional land ownership might not be the highest priority need for their community development programs. In Ketchikan, land is the top priority need and for this reason, we can support that subsection which would delay Ketchikan's participation in the "payments in lieu of land" program until after the cumulative appropriations to

the municipal land account exceeds \$12,000,000 or until the fiscal year beginning July 1, 1984, which ever comes first.

P. G. Fader
Mayor
Ketchikan Gateway
Borough.

Cape Fox neg. Swap with KGB

1. Manis. have been waiting long
2. Look & select exchange takes from Mut-su & Kenai, so they must know their entitlement
3. Saldovia & Eklutna want to ~~be~~ trade for their selections in state parks.
5. If remain in court w/ present cases prob. cannot do anything w/ land in those areas.
- 6.
7. SE - state will select from national forests. SE must know entitlements 'cause no acreage avail. "vacant etc."
8. No rapport state - communities because of present confusion, suits

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

April 27, 1977

OFFICE OF THE COMMISSIONER

11TH FLOOR, STATE OFFICE BLDG.
POUCH M - JUNEAU 99811

The Honorable Lisa Rudd
Chairman, House Community &
Regional Affairs Committee
Pouch "V"
Juneau, Alaska 99801

Dear Representative Rudd:

Attached is the fiscal note for the draft sponsor substitute for HB 133.

Just as the final federal determination of the "d(2)" question will decide which federal land shall be permanently retained by the United States, so too will the implementation of SB 241 decide the ultimate land ownership patterns on present state lands. Unlike the d(2) lands, however, the land ownership determined as a result of SB 241 will be for those lands upon which 80 per cent of the human use and activity will occur within Alaska in perpetuity. At a time when state government is wrestling with the question of what to do with its future revenue surpluses, we cannot think of a better way to use a small portion than for our greatest renewable natural resource - our land. This department feels strongly that the relatively insignificant monies needed to implement the municipal selection requirements of SB 241, for lands whose values are in the billions, are more than justified. We cannot provide the cooperative resource analysis and joint planning so desperately needed between the state and its municipalities without this funding.

Yours sincerely,



Michael C.T. Smith
Assistant Commissioner

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 133

Title General Grant Land Entitlements for Municipalities

Requested by House Community and Regional Affairs Committee Date April 27, 1977

II. FISCAL DETAIL

Agency Affected DEPARTMENT OF NATURAL RESOURCES

Program Category Affected NRM&EC

Budget Request Unit(s) Affected Land Management; and District Operations

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		232.0	210.9	223.6	237.0	251.0
200 TRAVEL		17.3	15.1	16.0	17.0	18.0
300 CONTRACTUAL	<i>see p. 4</i>	88.8	120.5	57.1	45.9	9.9
400 COMMODITIES		9.4	4.1	4.3	4.6	4.9
500 EQUIPMENT		7.1	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		354.6	350.6	301.0	304.5	283.8

FUNDING (Thousands of Dollars)

GENERAL FUND		354.6	350.6	301.0	304.5	283.8
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		7.0	7.0	7.0	7.0	7.0
PART TIME		2.0	-	-	-	-
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

~~SB 244~~ **HB 133** directs the Department of Natural Resources to accomplish a number of tasks within some relatively stringent time frames. Those requirements, and necessary personnel and fiscal needs to accomplish them, are shown below.

I. Short Range:

- A. Review, within six months, for every municipality in Alaska, state land status and certify each municipality's entitlement under Section 202(b).
- B. Review, within six months, 263,000 acres of approved selections within all municipalities and certify acreage to be patented under Section 204(b).
- C. Publish public notice, conduct necessary public hearings, and complete and issue patented documents for approximately 255,000 acres of approved selec-

tions within 90 days of survey.

Fiscal Requirement: Three positions required: land management officer III (Anchorage), land management officer II (Anchorage), and a cartographer III (Anchorage). The cartographer will also be used to accomplish medium range objectives shown below.

II. Medium Range:

With each municipality:

- A. Review approximately 12,000,000 acres of vacant, unappropriated, unreserved state land within all municipal boundaries to determine appropriate municipal selections for remaining 465,000 acres of entitlement.
- B. Review all remaining federal land (20,000,000 plus acres) within municipalities to determine municipal needs for future state general grant selections.

Fiscal Requirement: Four positions are needed to work closely with each municipality to accomplish the joint cooperative land planning and identification process mandated in Section 204(e). These are a principle planner (Anchorage), two land management officer III positions (one each Fairbanks and Juneau), and a land management officer II (Anchorage).

III. Southeast Forest Selection:

To accomplish approximately 200,000 acres of forest community grant selections within FY 78, a total of 24 man months of temporary time is needed. This will be a onetime FY 78 expense only. This temporary time is needed to insure municipal input to state selections to guarantee the 32,000 acres of entitlement for Juneau, Sitka, and Ketchikan.

FISCAL BREAKDOWN

PERSONAL SERVICES:

<u>New Positions</u>	<u>Annual Salary</u>	<u>Annual Benefits</u>	<u>Total</u>
Principal Planner	28,272	7,209	\$ 35,481
Land Mgmt. Officer III (Anchorage)	22,668	5,780	28,448
Land Mgmt. Officer III (Juneau)	22,668	5,780	28,448
Land Mgmt. Officer III (Fairbanks)	26,244	6,692	32,936
Land Mgmt. Officer II (Anchorage)	19,560	4,988	24,548
Land Mgmt. Officer II (Anchorage)	19,560	4,988	24,548
Cartographer III (Anchorage)	19,560	4,988	24,548
Sub-Total New Positions			\$198.9

<u>Temporary Positions</u>	<u>Annual Salary</u>	<u>Annual Benefits</u>	<u>Total</u>
Research, Analysis and Municipal Contact	15.7	1.5	17.2
	0	0	0

TRAVEL:

Per Diem	7.2
Transportation	<u>10.1</u>
	17.3

Total Travel \$17.3

CONTRACTUAL:

Socio-economic Analysis for Regional Plan	\$62.0
Editing of Regional Plan	8.0
Public Participation for three (3) Regional Plans	13.5
Communication	2.3
Advertising	.8
Transportation of things	.4
Equipment Rental	.6
Printing	<u>1.2</u>
Total Contract	\$88.8

*where mentioned in bill?
 P. 4 Acc. (E)*

COMMODITIES:

Cartographic Supplies	\$ 5.1
Other Supplies	<u>4.3</u>
Total Commodities	\$ 9.4

EQUIPMENT:

Desks	5 @ 350 each	\$1,750
Desk	1 @ 450	450
Light Table	1 @ 1500	1,500
Chairs	6 @ 120 each	720
Draftsman's chair	4 @ 115 each	460
Drafting machine	1 @ 235	235
Leroy letting set	1 @ 160	160
Layout tables	3 @ 350 each	1,150
File cabinets	4 @ 160 each	<u>640</u>
Total Equipment		\$7,065

**Municipality
of
Anchorage**



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MAYOR

April 28, 1977

Community and Regional Affairs Committee
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

RE: Municipal Land Selection Legislation

As you know, the Mandatory Borough Act adopted by the Alaska Legislature in 1963 provided for the selection by municipalities of ten percent (10%) of the "vacant, unappropriated and unreserved" state lands located within their boundaries. See AS 29.18.190-218. Among the purposes of the municipal land selection program were to provide a source of revenue for municipalities lacking an established tax base and to make available a "resource and community development tool" which would give local governments a measure of control over development within their boundaries.¹

Unfortunately, the passage of time coupled with radically changing economic conditions in Alaska have created numerous problems in attempting to implement the municipal land selection program. Because the 1963 legislation was silent concerning the proper relationship between statewide land management goals, and municipal land interests, disputes arose between the state and municipalities concerning which lands were appropriate for transfer to local governments. Also, the lack of any consistent administrative or legislative definition of "vacant, unappropriated and unreserved" lands added to the controversy. For the past several years, the process of land transfers to municipalities under AS 29.18.190-218 has ground to a halt, and it has become apparent that only a final legislative settlement of the municipal land selection program can achieve the purposes of the original legislation.

¹ Senator John Rader, Chapter 2 in The Metropolitan Experiment in Alaska, Praeger, London, (1968) p 113.



CSSB 241 is the product of a series of meetings between representatives of local governments and the Alaska Division of Lands. The purpose of these meetings was to produce legislation which would specify municipal land entitlements and provide an equitable and efficient settlement of those entitlements by taking into account both statewide and local interests in land management. The proposed bill establishes land entitlements for various local governments and mandates orderly procedures for the fulfillment of those entitlements.

Several municipalities, including the Municipality of Anchorage, have experienced substantial losses of state land available for local selection under existing statutes. These losses have been caused by a variety of factors including the impact of native claims and state classification of land for various statewide purposes such as state parks and mineral resource development. The effect of such actions has been that Anchorage, together with several other municipalities, will probably not be able to receive enough state land to satisfy their entitlements.

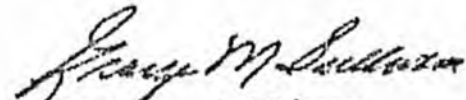
On the other hand, the need for municipally owned land in Anchorage and other communities has never been greater. Faced with increasing population and demands for services, Anchorage has pursued an aggressive program of land acquisition for parks, recreation and other public purposes. For example, in 1976, voters in Anchorage approved \$7.5 million in bonds for park and recreation developments. Land acquired from private owners in Anchorage costs taxpayers thousands of dollars per acre and places yet another burden on already strained municipal tax revenues.

The proposed bill would deal with the unavailability of state land in Anchorage and other communities by allowing such local governments to exchange their unsatisfied land entitlements for payments in lieu of land. The bill would create the Alaska Municipal Land Account and establish procedures for receiving payments in lieu of land. Funds received under the proposed AS 29.18.208 could be used by local governments such as Anchorage to offset burdens on municipal taxpayers in acquiring private lands for public uses.

Community & Regional Affairs Committee
Page -3-
April 28, 1977

It is important to reemphasize that the proposed bill (CSSB 241), including those sections providing for payment in lieu of land, has been arrived at through numerous meetings and compromises among Anchorage, other municipalities and the Alaska Division of Lands. The Municipality of Anchorage therefore strongly requests your support for the passage of a House bill that is identical or very similar to CSSB 241. Since Representative Parr has introduced a bill (HB 133) dealing with municipal land selection, perhaps a committee substitute incorporating the language of CSSB 241 would be the most expeditious way to secure passage of the proposed legislation by the First Session of the Tenth Legislature. If members of the Committee have any questions concerning the Municipality's position on the proposed bill, they may contact Ted Berns, Assistant Municipal Attorney at 264-4443.

Sincerely yours,


George M. Sullivan
Mayor

TB:GMS:kc

cc: Representative Rudd (Chairman)
Representative Smith (Vice Chairman)
Representative Ose
Representative Phillips
Representative Lethin
Representative Kelly
Representative Snider
Representative Miles
Representative Anderson

April 28, 1977

TO: HOUSE COMMUNITY & REGIONAL AFFAIRS COMMITTEE
FROM: WAYNE KOTULA, MAYOR OF KODIAK ISLAND BOROUGH
RE: CSSB 241

Per telephone conversation with the Kodiak Island
Borough's secretary on 4/28/77 at 11:00 a.m.

The Kodiak Island Borough wishes to register their
full support for CSSB 241.

LR/ds

FAIRBANKS NORTH STAR BOROUGH

Box 1267, Fairbanks, Alaska 99707

April 29, 1977

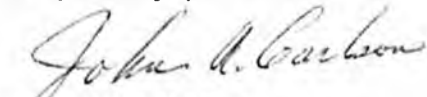
Representative Lisa Rudd, Chairman
House Community and Regional Affairs Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Representative Rudd:

In response to your letter of April 26th, reference SB 241 and the work draft for HB 133, I want to go on record as being in support of this legislation and encourage its early passage. This piece of important legislation is necessary for orderly development and disposition of lands within the Fairbanks North Star Borough and other affected municipal governments.

Our staff has been working with the other boroughs, the Division of Lands and our local representatives in developing a bill which would be acceptable. The determination of entitlement of 112,000 acres, we feel at this time, is a justifiable amount.

Very truly yours,



JOHN A. CARLSON
Borough Mayor

JAC:nic



THE CITY AND BOROUGH OF JUNEAU

CAPITAL OF ALASKA

155 SOUTH SEWARD ST. JUNEAU, ALASKA 99801

DATE: April 30, 1977

FILE NO. SB 241/HB 133

SUBJECT: Municipal Land Entitlements

The Honorable Lisa Rudd, Chairman
House Community and Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Rudd:

Your letter to Mayor Overstreet requesting comment on proposed municipal land selection legislation has been referred to my office. The legislation which is currently proposed as a committee substitute for SB 241 has been presented to the assembly of the City and Borough of Juneau. The assembly endorses the legislation and requests your committee report it out as a committee substitute for HB 133 as quickly as possible. The legislation would settle troublesome entitlement questions and would deal with municipal land entitlements in a much more rational manner than the current ten percent system as applied to the three boroughs in Southeast Alaska which are completely surrounded by national forest.

Under section 6(a) of the Statehood Act the state was given a right to select 400,000 acres in the national forest

for the purpose of furthering the development of and expansion of communities . . . all of which [land] shall be adjacent to established communities or suitable for prospective community centers and recreational areas.

Thus, congress recognized that the communities which were surrounded by the national forest had a problem which should be dealt with by allowing the state to select up to 400,000 acres in the national forest for community development and expansion purposes. This 400,000-acre entitlement is in addition to the 102,550,000 acres which the state may select outside the national forest for general state purposes. Thus, those lands selected within the national forest should be for community purposes and should either be conveyed to adjacent municipalities or held by the state for the development of communities which will come into existence in the future. National forest land selections may not be used for general state purposes other than, perhaps, for recreational purposes. Thus, a substantial part of the land selected in the national forest should be selected for community purposes and conveyed to existing communities.

The question which arises is, how much of the state's 400,000-acre community purposes entitlement should be conveyed to the City and Borough of Sitka, the Ketchikan Gateway Borough and the City and Borough of Juneau, the three largest municipalities in the state which are completely surrounded by the national forest. The Division of Lands has indicated that it believes that only 32,000 acres is the appropriate combined amount that should be conveyed to the three municipalities. Using this figure of 32,000 acres the three municipalities have agreed that this amount or any additional amount made available should be divided among the three communities on a ratio of 2:2:3 for Sitka, Ketchikan and Juneau. It was using this method that the entitlements which appear in the proposed CSSB 241 were arrived at. This division of the 32,000 acres has been approved by all three communities.

These three Southeast communities also face another critical land problem. Immediately after statehood, the state came into these communities and selected almost all the developable land which was within or immediately adjacent to the populated areas. These selections were made for the mental health trust. Sitka has a particularly critical problem created by mental health trust selections. Juneau and Ketchikan are also afflicted by a mental health lands problem. Within the populated area of the City and Borough of Juneau, there are over 11,000 acres of mental health lands. These lands can be put into public or private ownership only when the mental health land trustees believe it is appropriate to do so and only when the trust will receive market value or more for such lands. The municipalities do not have the resources to effect the release of mental health lands. Giving these three Southeast communities a reasonable entitlement to other lands will provide them with one resource which could be used to free up some of the mental health lands and ease a general land shortage problem.

Section 208 of the bill, beginning on page 7 of CSSB 241 sets up a system of in-lieu payments where there is insufficient land to meet entitlements. You will note that subsection (b) of that section makes the three Southeast communities ineligible to go into the fund until 1984 or until a total of \$12 million have been appropriated to the fund. This limitation has been placed in the bill with the agreement of the three communities involved. The communities recognize that there are other communities which have little hope of obtaining their full entitlement through land selections. The three Southeast communities fully anticipate that the state will select sufficient lands within their boundaries to meet the entitlement set forth in section 202. At present, however, the state has selected very little land within these communities. Because the three Southeast communities are much more interested in receiving land than in-lieu payment (presuming the land can be made available) these communities have agreed to the deferred

April 30, 1977

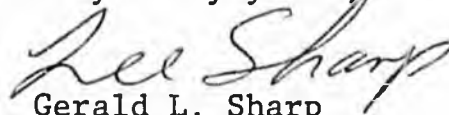
eligibility for in-lieu payments as set forth in section 208(b). This will give those municipalities with an immediate selection problem an opportunity to cash in a substantial part of their entitlement without the threat of having to compete with the Southeast municipalities for the limited dollars that will be available in the fund.

There is one minor change which I suggest should be made to section 204(f) on page 5 of proposed CSSB 241 at line 7. The sentence involved sets out the factors to be considered by the state as being primarily of local concern. One of the elements is "other responsibilities delegated by the state to the municipality." As it can be very easily argued that the state has "delegated" only the three mandatory powers of education, assessment collection, and planning and zoning, this phrase should be changed to indicate that all functions which are municipal in nature are to be considered. I believe this can be accomplished by merely adding the words "authorized or" before the words "responsibilities" and "delegated" in line 7.

Michael Smith of the Division of Lands discussed several reasons for the need to have this legislation on the books this year. We echo his statement of need. As he pointed out, the state will be making its major selections in the national forest of Southeast Alaska this year. In fact, the state has indicated that our nominations are to be in to them in the very near future. It is extremely difficult for any municipality to make rational nominations under the ten percent system which is now in effect. That system forces a municipality to suggest nominations which are in excess of local needs in order to ensure that there will be sufficient ten percent lands available to the municipality. If the proposed legislation does not pass this session of the legislature, the Southeast communities will be in a quandary as to whether the nominations which they make in the near future should be based upon a ten percent rationale or should be related to a known specific entitlement in which case the municipality may make rational selections based upon the perceived needs of the community. Passage this session will resolve the question in favor of rational nominations.

Again, we urge your early approval and support of legislation such as that proposed in CSSB 241.

Very truly yours,



Gerald L. Sharp
City and Borough Attorney

cc: Representatives Smith, Ose, Phillips,
Lethin, Kelly, Snider, Miles, Anderson,
Miller, Duncan, Eliason, Freeman and Gardiner
Honorable Bill Overstreet, Mayor, City and Borough of Juneau
Steve Reeve, Planning Director, Ketchikan Gateway Borough
"Rocky" Gutierrez, Administrator, City and Borough of Sitka
Don Berry, Executive Director, Alaska Municipal League

GLSmmb



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

April 28, 1977

Ms. Lisa Rudd, Chairman
Alaska State Legislature
House Community and Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Ms. Rudd:

Subject: Senate Bill 241

This is to follow up on our telegram expressing support for CSSC 241. We have worked closely with Michael Smith, Director, Division of Lands and representatives of other municipalities in an attempt to reach consensus on a bill which we can all support. I believe we have reached that consensus.

The copy of CSSC 241 which accompanied your letter of April 26, 1977, should be changed in two respects.

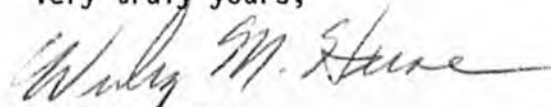
Section 29.18.202 (d) should read as follows: "General grant land entitlements provided in this section constitute vested property rights which shall be fulfilled as provided in sec. 204 or sec. 208 of this chapter, but no municipal selection vests any interest in or right to receive a particular tract of land except as provided by sec. 204 of this chapter."

Section 38.05.321 (c) should be amended to read as follows: "The provisions of (a) and (b) of this section do not apply to state land classified as agricultural or grazing land which has been selected by a municipality under the provisions of AS 29.18.190 - 29.18.200 if the selection is an approved selection valid under AS 29.18.204 (b)."

If you desire to discuss the details of these changes, you might want to contact Director Smith or Tom Meacham, legal counsel in ADL.

We hope CSSC 241 will be enacted.

Very truly yours,


Wesley M. Howe
Borough Manager

WMH:er

May 2, 1977

TO: HOUSE COMMUNITY & REGIONAL AFFAIRS COMMITTEE
FROM: GARY BRADFORD - MAYOR OF BRISTOL BAY BOROUGH
RE: CSSB 241

Gary Bradford, Mayor of Bristol Bay Borough telephoned the House Community and Regional Affairs Committee office on 5/2/77 at 3:35 p.m.

He stated for the record that he had reviewed the committee substitute for SB 241 and that it "looks satisfactory to us and we have nothing to add".

MOENING-GREY & ASSOCIATES, INC.
GEOLOGISTS AND ENGINEERS

715 L STREET, SUITE B ANCHORAGE, ALASKA 99501
TELEPHONE 274-2314

August 23, 1977

Mr. Stuart Denslow
Borough Manager
Kodiak Island Borough
Box 1246
Kodiak, Alaska 99615

Re: Kodiak Island Borough Land Selections - 77-209

Dear Mr. Denslow:

An acreage count of state tentative approved and patented land within the Kodiak Island Borough is approximately 619,000 acres. This base will give the borough a 61,900 acre selection right. According to my recap of the existing selections 38,187 acres have been selected to date. This figure includes some acreage that is not available and will be rejected. In addition, if the borough selected acreage is rejected in areas selected by eligible native villages the 38,187 acre figure will be reduced accordingly.

At present the difference between the selected and the selectable acreage is 23,713 acres. This differs considerably from the 9000 acres indicated by the Alaska Division of Lands. [The Division of Lands based their figures only on land that was vacant, unappropriated and unreserved. We are taking the position that the entire state acreage is to be used in determining the borough selection base.]

Sincerely,

MOENING-GREY & ASSOCIATES, INC.



Dale P. Tubbs

DPT/lv

RECEIVED NOV 7 1977

ANCHORAGE:

HOYT M. COLE
ROBERT L. HARTIG
JAMES D. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
BERNARD J. DOUCHERTY

COLE, HARTIG, RHODES, NORMAN & MAHONEY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
SUITE 201
717 K STREET
ANCHORAGE, ALASKA 99501
(907) 274-3575

KODIAK OFFICE:

KODIAK PLAZA, BOX 503
KODIAK, ALASKA 99515
(907) 435-3143
(907) 436-3144

G. RODNEY KLEEOEHN
J. MICHAEL ROSSINS
ROGER H. BEATY
STEPHEN D. ROUTH

November 3, 1977

KODIAK:

MICHAEL W. SHARON

REPLY TO: Anchorage

Mr. Dale P. Tubbs
Moening-Grey & Associates, Inc.
715 "L" Street, Suite 8
Anchorage, AK 99501

Re: Legislation
Our File 101-28

Dear Dale:

Last year legislation was introduced in the State Legislature to compensate municipalities for lands which they were entitled to select under state statutes but which, however, were not available for selection. As you are well aware, the Kodiak Island Borough faces serious deficiency in the availability of lands for selection under the Alaska Native Claims Act.

Assuming that legislation is passed, providing for their compensation for these lands, it may be that this procedure not only is a fair approach to the problem, but is the only method by which the problem can be resolved.

In a meeting with Mike Smith, Jack Roderick, representatives from each of the municipal governments of Kenai, Matanuska-Susitna and Fairbanks, and myself, on October 30, 1977, the group was unanimous in its desire to again pursue passage of legislation during this session.

The purpose of my letter is to ask that you review the maps prepared by the Division of Lands which depict some 450,000 acres of state land within the Kodiak Island Borough which, in turn, would mean that the borough's eligibility under the 102 clause of the applicable statute would be 45,000 acres. Mr. Smith stated that it was the Division's estimate that the 450,000 acres was the total amount of land which was ever selected, and that the 45,000 acres then available for selection by the borough was a

Mr. Dale P. Tubbs
November 3, 1977
Page Two

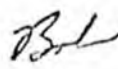
top figure. I remember, in our earlier discussions, that you expressed the opinion that, rather than 45,000 acres, it may be slightly higher. Mr. Smith requested that we bring to his attention any errors which we may have found with regard to the maps and that we do this as soon as possible, in order that, if it becomes necessary, we can change the total figures in the legislation.

For your information, I have also enclosed a copy of the proposed legislation so that you might know what is attempted to be accomplished. Should you have any questions concerning it or have comments, I would appreciate receiving them.

Yours truly,

COLE, HARTIG, RHODES,
NORMAN & MAHONEY

By:


Robert I. Hartig

RLH:kh

Enclosure

cc: Client

MOENING-GREY & ASSOCIATES, INC.

GEOLOGISTS AND ENGINEERS

715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501

TELEPHONE 274-2314

December 20, 1977

Mr. Robert L. Hartig, Attorney
Cole, Hartig, Rhodes, Norman & Mahoney
717 K Street - Suite 201
Anchorage, Alaska 99501

Re: Kodiak Island Borough Land Selection Entitlement.

Dear Bob:

My meeting with Ron Swanson, employee of the Alaska Division of Lands, on December 19, 1977 was brief and to the point. He had reviewed my acreage figures relating to the total number of acres tentatively approved and/or patent to the State in the Kodiak Island Borough. His recalculations of the state documents indicate 600,765.31 acres have been conveyed. This compares to the 618,957 acres I used. My figures were based on a combination of T.A. documents and dot counting the land configuration on the state status plats. Mr. Swanson indicated a number of the T.A. documents have been modified by BLM to exclude some of the water. The true acreage will never be known until survey is completed. This will not be known in many instances because some state T.A. is being revoked to benefit the native village selections. The 18,191.69 acre difference between his and my figures can stand without challenge. The 600,765.31 acre figure is within acceptable limits with the present data.

Mr. Swanson stated the Division of Lands would be notifying the Kodiak Island Borough of the increased total state acres within the borough boundary. From the new total they will then deduct the following acreages to determine the boroughs base:

Land classified Grazing & Timber	11,070.00 acres
Land classified Timber	50,342.00 acres
Land classified Public Recreation	214.62 acres
Land classified Watershed	11,821.00 acres
Land classified Resource Management	18,897.00 acres
	<u>92,344.62 acres</u>

Mr. Robert L. Hartig, Attorney
Page 2
December 20, 1977

These acreage deductions must be challenged for the following reasons:

Grazing-Timber - This is the acreage for Marmot Island. The island was classified prior to borough existence. A grazing lease was issued for the island but has since been terminated. The lessee did not place any stock on the lease. The classification was never reviewed with the borough.

Timber - This classification is for Shuyok⁴ Island. The island was classified timber to authorize the sale of timber from lands selected by the borough. The Borough-State Management Agreement states, "All leases, sales or other disposals which are made by the State on behalf of the Borough pursuant to this agreement - - - shall be conducted in accordance with the Alaska Land Act and the regulations promulgated by the State pursuant thereto." The borough had selected lands on the island to benefit from a timber sale that was advertised but did not sell at auction. The State did not approve the selection but only because of lag in paper work. When the sale did not receive an acceptable offer there was no urgency to approve the selection to validate the transfer of timber revenue to the borough.

Watershed - This acreage is made up of the Port Lions and Monashka Bay-Pillar Creek Watersheds. Again the classification was made by borough request to protect values and conform to the Borough-State Management Agreement.

Resource Management - This acreage was placed on lands that were once open-to-entry. When the OTE lands were closed to entry the state in an overnight action, without consultation with the borough, reclassified the lands to resource management. No input was requested of the borough or indication given by the division. the reclassification would take the acreage out of reach from borough selection.

Public Recreation - No challenge is necessary for the public recreation lands at Fort Abercrombie (182.72 acres), however, the remaining public recreation lands are included in lands already conveyed to the Borough.

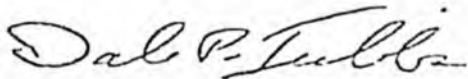
It is apparent the division also figures any of the acreage conveyed to the state with an existing grazing lease are not available for selection. No acreage deduction has been made for those leases to date but may surface once a borough selection is adjudicated.

Mr. Robert L. Hartig, Attorney
Page 3
December 20, 1977

I am available to discuss the above points at your convenience.

Sincerely,

MUENING-GREY & ASSOCIATES, INC.



Dale P. Tubbs.

DPT/lv
encl.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

323 E. 4TH AVENUE - ANCHORAGE 99501

January 31, 1978

The Honorable Steve Cowper
Chairman, House Finance Committee
Pouch "V"
Juneau, AK 99811

Re: Fiscal Note for CSHB 133

Dear Representative Cowper:

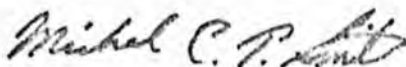
Since the 1977 Legislature did not act upon the Municipal Land Selection Bill (CSHB 133), certain changes need to be made in the fiscal note which was submitted by the Department of Natural Resources for this bill in April 1977. A copy of the new fiscal note is attached and is fairly self explanatory.

While the amounts remain fairly similar, two changes are apparent. First, in the April 1977 fiscal note a request was made for a one-time cost of \$33.1 for the purpose of working with communities within the national forests in Alaska to enable the State to select a substantial portion of its national forest community grant land entitlement. Since this bill did not move last year, that money was granted elsewhere in the budget. Since this program, which was highly successful, has already been completed, that portion of the fiscal note request has been dropped.

The other change is an increase in salaries and benefits due to the APEA contractual agreements which automatically raised the salary levels during the current fiscal year.

If you have any questions concerning this fiscal note, please contact me.

Sincerely,



Michael C. T. Smith
Assistant Commissioner

Attachment

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS HB 133
 Title Grant Land Entitlements for Municipalities
 Requested by House Finance Committee Date January 24, 1978

II. FISCAL DETAIL

Agency Affected DEPARTMENT OF NATURAL RESOURCES
 Program Category Affected NR&EC
 Budget Request Unit(s) Affected Land Management; and District Operations; and
 Land Administration and Support

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		227.0	240.6	255.0	270.3	286.5
200 TRAVEL		17.3	15.1	16.0	17.0	18.0
300 CONTRACTUAL		88.8	120.5	57.1	45.9	9.9
400 COMMODITIES		9.4	4.1	4.3	4.6	4.9
500 EQUIPMENT		7.1	-	-	-	-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		349.6	380.3	332.4	337.8	319.3

FUNDING (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
GENERAL FUND		349.6	380.3	332.4	337.8	319.3
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
FULL TIME		7.0	7.0	7.0	7.0	7.0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

CS HB 133 directs the Department of Natural Resources to accomplish a number of tasks within some relatively stringent time frames. Those requirements, and necessary personnel and fiscal needs to accomplish them, are shown below.

I. Short Range:

- A. Review, within six months, for every municipality in Alaska, state land status and certify each municipality's entitlement under Section 202(b).
- B. Review, within six months, 263,000 acres of approved selections within all municipalities and certify acreage to be patented under Section 204(b).
- C. Publish public notice, conduct necessary public hearings, and complete and issue patented documents for approximately 255,000 acres of approved selec-

IV. DATE January 24, 1978 PREPARED BY MICHAEL SMITH
 AGENCY Division of Lands

Original: Legislative Finance PHONE 279-5577
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) *mett 1/31/78*

tion; within 90 days of survey.

Fiscal Requirement: Three positions required: land management officer III (Anchorage), land management officer II (Anchorage), and a cartographer III (Anchorage). The cartographer will also be used to accomplish medium range objectives shown below.

II. Medium Range:

With each municipality:

- A. Review approximately 12,000,000 acres of vacant, unappropriated, unreserved state land within all municipal boundaries to determine appropriate municipal selections for remaining 465,000 acres of entitlement.
- B. Review all remaining federal land (20,000,000 plus acres) within municipalities to determine municipal needs for future state general grant selections.

Fiscal Requirement: Four positions are needed to work closely with each municipality to accomplish the joint cooperative land planning and identification process mandated in Section 204(e). These are a principle planner (Anchorage), two land management officer III positions (one each Fairbanks and Juneau), and a land management officer II (Anchorage).

FISCAL BREAKDOWN

PERSONAL SERVICES:

<u>New Positions</u>	<u>Annual Salary</u>	
Planning Supervisor	32,268	
Land Mgmt. Officer III (Anchorage)	25,872	
Land Mgmt. Officer III (Juneau)	25,872	
Land Mgmt. Officer III (Fairbanks)	29,952	
Land Mgmt. Officer II (Anchorage)	22,332	
Land Mgmt. Officer II (Anchorage)	22,332	
Cartographer III (Anchorage)	<u>22,332</u>	
TOTAL SALARY		\$180,960
Benefits \$180,960 X 17.25% =	\$31,216	
FICA \$1143 X 7 =	8,001	
Health Insurance 84 181 X 82.18 =	<u>6,903</u>	
TOTAL BENEFITS		<u>46,120</u>
TOTAL PERSONAL SERVICES		\$227,080

TRAVEL:

Per Diem	7.2	
Transportation	<u>10.1</u>	
	17.3	
TOTAL TRAVEL		\$17,300

CONTRACTURAL:

Socio-economic Analysis for Regional Plan	\$62.0
Editing of Regional Plan	8.0
Public Participation for three (3) Regional Plans	13.5
Communication	2.3
Advertising	.8
Transportation of things	.4
Equipment Rental	.6
Printing	<u>1.2</u>
TOTAL CONTRACTURAL	\$88,300.00

COMMODITIES:

Cartographic Supplies	\$ 5.1
Other Supplies	<u>4.3</u>
TOTAL COMMODITIES	\$9,400.00

EQUIPMENT:

Desks	5 @ 350 each	\$7,750
Desk	1 @ 450	450
Light Table	1 @ 1500	1,500
Chairs	6 @ 120 each	720
Draftsman's chair	4 @ 115 each	460
Drafting machine	1 @ 235	235
Leroy lettering set	1 @ 160	<u>160</u>
Layout tables	3 @ 350 each	1,150
File cabinets	4 @ 160 each	<u>640</u>
TOTAL EQUIPMENT		\$7,065.00

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

February 2, 1978

Mr. Stuart O. Denslow
Kodiak Island Borough
P. O. Box 1246
Kodiak, Alaska 99615

Re: Meeting with ADL - Land Selection Base

Dear Mr. Denslow:

This capsulizes the meeting held with the Alaska Division of Lands to resolve the acreage base to be used in determining Kodiak Island Borough's land selection entitlement.

Persons in attendance:

Michael C.T. Smith - Director, Division of Lands
Thomas Meachum - Assistant District Attorney
Ronald Swanson - Staff employee - ADL
Robert L. Hartig - Attorney representing Kodiak Island Borough
Dale Tubbs - Land Management Consultant representing Kodiak Island
Borough

Date and Place of Meeting:

January 30, 1978 - Division of Lands

Reason for meeting:

The meeting was held to express KIB's disagreement with the 45,200 acres entitlement as stated in ~~House~~ ^{NOTE} Bill 241 and get it adjusted.

Prior to the meeting I had several meetings with Ron Swanson to substantiate the total acres tentative approved to the State within the KIB. This resulted in more than 24,000 acres being added to the States total T.A. acreage figures. The State then calculated an acreage figure for vacant, unappropriated and unreserved land at six month intervals. The six month interval began in 1962. With refinement the State now arrived at a maximum of 521,844.97 acres to be used to determine KIB's base. (See attach table.)

Mr. Stuart O. Denslow
Page 2
February 2, 1978

The new base figure takes into account a reduction in acreage based on lands being classified Timber, Grazing-Timber, Watershed, Public Recreation, Resource Management and acres already conveyed to the borough. Our argument at this point was, the reduction is a "Catch 22" to the borough. Reason: The State-Borough land management agreement required the land be classified prior to disposal action or to implement management. The total acres classified is 92,000+ acres. Most of these classifications were requested by the borough or to assist in the States procedures to conduct a disposal for the borough's interest. Smith admitted the "Catch 22" and agreed to change the figures where classification were for borough management. I am to work with Ron Swanson to present evidence of the boroughs involvement in the classifications.

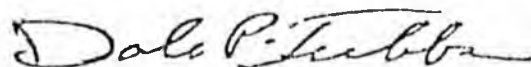
18,897 acres were classified resource management. This was done in an overnight exercise by ADL to close the open to entry program. No consultation was made with the borough. At that time, lands classified as resource management were borough selectable. Now ADL's interpretation is they are not. If the borough had known this was going to happen they would have opposed the reclassification as such. This battle is not won.

The maximum selectable acreage remains reduced by acreage conveyed to the borough. This point needs to be discussed with you and Hartig to determine if it should be challenged. If the high point in column 2 was 1967 I would say forget it. However, the high point is now in 1978 and reflects a 10,000 acre base reduction due to borough title. (1000 acre selection right).

Smith was upset over the KIB land selection made September 6, 1977. He accused the borough of bad faith in not holding a status quo while the present legislation is being considered. Hartig explained the legal rationale but didn't phase Mr. Smith.

Final resolution of the meeting is to recalculate the acres involved in the "Catch 22" and adjust upward in favor of the borough. I'm not convinced at this point both parties are on the same wave length. As Mr. Smith learns more about anything the more adept he becomes in burying it with further study.

Sincerely,



Dale P. Tubbs

DPT/lv
attachment

BOROUGH

lands held by Gov.

Tentative Approval

Occupied
 Because of classification
 Timber-Crossing
 Public PL
 Reservoir Spout
 Timber
 Enclosed

Net Vacant

Date	Tentative Approval	Occupied	Net Vacant
6/30/60	0		0
12/31/60	"		"
6/30/61	"		"
12/31/61	"		"
6/30/62	"		"
12/31/62	11,070.00	11,070.00	"
6/30/63	"	"	"
12/31/63	229,897.55	"	218,827.55
6/30/64	361,757.62	"	350,667.62
12/31/64	435,176.32	"	424,106.32
6/30/65	435,194.38	"	421,124.38
12/31/65	"	11,315.49	423,878.99
6/30/66	435,475.32	19,165.80	416,309.58
12/31/66	464,788.32	19,220.96	445,567.42
6/30/67	525,396.12	19,426.21	505,969.91 *
6/31/67	"	19,875.95	505,520.10
6/30/68	"	47,625.29	447,710.85
12/31/68	"	77,672.29	447,732.83
6/30/69	525,396.12	47,604.50	447,701.62
12/31/69	"	82,023.35	445,317.77
6/30/70	"	82,341.81	443,054.31
12/31/70	"	"	443,054.31
6/30/71	"	82,342.72	443,053.39
12/31/71	"	"	443,055.29
6/30/72	"	95,622.72	429,763.39
12/31/72	"	"	429,763.39

BOROUGH (Cont)

	Tentative Approval	Occupied	Net Vacant
6/30/73	525,396.12	96,545.15	428,850.97
12/31/73	"	102,152.15	426,243.97
6/30/74	"	"	423,243.97
12/31/74	"	"	423,243.97
6/30/75	"	"	423,243.97
12/31/75	623,997.12	"	* 521,244.97
6/30/76	620,168.12	"	518,010.97
10/31/76	"	"	518,010.97
6/30/77	611,734.29	N/A	N/A
12/31/77	"	N/A	N/A

Note: These figures do not reflect the acreage affected by The AWCSA

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

February 8, 1978

Mr. Robert L. Hartig, Attorney
Cole, Hartig, Rhodes, Norman & Mahoney
717 K Street, Suite 201
Anchorage, Alaska 99501

Re: Kodiak Island Borough Land Selection Entitlement.

Dear Mr. Hartig:

Following our meeting with Michael Smith, Director, Division of Lands, January 30, 1978, I have been furnished a new summary of TA'ed, occupied and vacant lands within the Kodiak Island Borough. Four new columns have been added proporting to show lands classified at the borough request and selected, lands classified at the borough request but not selected by the borough and a new summary column in each case to show a new net vacant acreage. I do not follow the logic or significance of the borough selecting or not selecting acreage that it requested the classification thereof.

In reference to the occupied column (A) of the summary sheet, the division has included acres approved to the borough. The impact amounts to approximately 9800 acres. Therefore, the occupied column acreage is made up of lands classified as grazing-timber, timber, public recreation, watershed, resource management and acres conveyed to the borough. The inclusion of the borough TA'ed acres is reducing its own entitlement. I do not follow the logic put forth by the division and it is not the understanding I had on determining the base acreage.

The following list summarizes the classification orders affecting the land selectability.

Item #	Classification Order #	Date of Class. Order	Total Acres Involved	Classification
1	130	10/31/62	11,070	Grazing-timber (Marmot Island)
2	315	10/28/65	183	Public Recreation (Fort Abercombie)

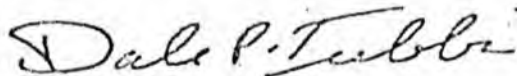
Mr. Robert L. Hartig, Attorney
Page 2
February 8, 1978

3	138 380	5/19/66	7,630	Watershed (Monashka Bay)
4	479	1/18/68	50,342	Timber (Shuyak Island)
5	656	9/7/69	4,316	Watershed (Port Lions)
6	715 (A-2)	4/15/71	15,548	OTE to Res. Mgmt.
7	715 (A-4)	1/24/72	1,990	OTE to Res. Mgmt.
8	805	3/10/72	10,980	Resource Mgmt. (Red Meat Lease)

My interpretation of classifications that may preclude borough selectability are Items 1, 2 and possibly 6. Item #1 established a land classification prior to the formation of a borough; Item #2 involves the classification of the State Park at Fort Abercrombie; and Item #3 classifies the area involved in the Red Meat lease to the University. Item #3 was done without consultation with the borough to legalize the lease to the University of Alaska. At the most, I would say 22,233 acres could be used to reduce the 623,997 acres TA'ed to the State. By accident this closely corresponds to the net vacant column (NV3) for 12/31/75.

Ron Swanson indicated to me Mike Smith does not concur in the 12/31/75 date for establishing entitlement. My understanding is, he is picking the high point prior to ANCSA. I do not concur in this logic as the new acres TA'ed to the State after ANCSA do not involve village withdrawal acreage. We should discuss these points with Mr. Denslow to formulate a stand we can fall back on.

Sincerely,



Dale P. Tubbs

DPT/lv
encl.

cc: Stuart O. Denslow

DALE P. TUBBS
LAND MANAGEMENT CONSULTANT
715 L STREET, SUITE 8 ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-2314

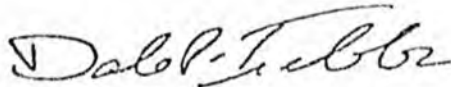
February 10, 1978

Honorable Merle G. Snider
Pouch V
Juneau, Alaska · 99811

Dear Representative Snider:

Mr. Stuart Denslow, Manager, Kodiak Island Borough, has asked I forward you a copy of CSSB 241 relating to selection and transfer of land to municipalities. Also included is correspondence regarding the selection entitlement to the Kodiak Island Borough. As stated in the February 2nd letter to Denslow, the Division of Lands used a "Catch 22" in computing the borough's entitlement. They excluded acreage from being eligible that was classified at the request of the borough and as required in the Borough-State Management Agreement. The borough is looking for a 60,000 acre entitlement as opposed to the 45,200 acres indicated in the bill.

Sincerely,



Dale P. Tubbs

DPT/lv
encl.

cc: Stuart O. Denslow

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

11TH FLOOR, STATE OFFICE BLDG.
POUCH M - JUNEAU 99811

March 3, 1978

The Honorable Steve Cowper
Chairman, House Finance Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Cowper:

Re: Payment in lieu of land projected costs for
CSHB 133 (Finance)

In view of the amendments to CSHB 133 which have occurred since my last estimate of projected in lieu payment in my February 15, 1978, letter. I have stated below my best estimate of the maximum and minimum values. This estimate is based upon the draft which will be submitted to the House Finance Committee on Friday, March 3, 1978.

The projections below are based upon the following assumptions:

1. The land entitlements presently found in CSHB 133 will remain constant (any upward change of entitlement will probably increase the projected request).

2. The U. S. Forest grant selections made by the State in December, 1977, will be conveyed to the State by July 1, 1984 (so that they would be available for municipal selection).

3. 75% of boroughs which form in the future, and which automatically receive an entitlement of 25,000 acres, will receive that entitlement in land. 25% of future boroughs will have the same entitlement, but will not be able to fulfill it completely with land and will take payments in lieu of land under section 208.

Under the above assumptions, the maximum and minimum total projected requests (in millions of dollars) by qualified municipalities is:

Minimum

19.0

Maximum

23.0

The Hon. Steve Cowper

-2-

March 3, 1978

The maximum request in any one year would be approximately 5.7 million.

Section 29.18.208 permits qualified municipalities to request up to the above maximum amounts, but the actual appropriation could be less in any particular year. Thus, the time period during which in lieu payments might be made is under legislative control.

Sincerely,

Michael C.T. Smith

Michael C.T. Smith
Assistant Commissioner



OFFICE OF THE MAYOR
MUNICIPALITY OF ANCHORAGE

POUCH 6-650
ANCHORAGE, ALASKA 99502

3/13/78

This is to confirm the telecopy sent to you on this same date at 1:15 P.M., Anchorage time.

Lova J. O'Shea
Secretary to Mayor

Municipality of Anchorage



OFFICE OF THE MAYOR

POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

3/13/78
Deliver to Rep. Rudd
ASAP.

Representative Lisa Rudd
Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Rudd:

You have asked for comment concerning CSHB 133 (Finance) relating to selection of state land by municipalities. In general, the Municipality of Anchorage strongly supports this legislation and urges its expedited approval by the House and Senate. However, a number of problems and ambiguities should be addressed in order to make the proposed legislation an equitable settlement of land entitlements between local governments and the state.

AS 29.18.202(C) (D) in the proposed bill would, in essence, require some municipalities to promise that large amounts of land received from the state would be "committed to disposal to private ownership." Although such a proposal may have merit with respect to boroughs with large amounts of available vacant land, it is manifestly unreasonable for a municipality such as Anchorage that does not possess enough vacant land to satisfy even its own governmental needs. Anchorage is presently engaged in an on-going land acquisition program to provide land for streets, utilities, and park and recreation purposes. This land is being acquired at a tremendous cost in order to provide critically needed municipal facilities and services. Faced with such a situation, the idea of requiring Anchorage to give away vacant land for private ownership is, at best, unreasonable.

I realize that proposed AS 29.18.202(E) authorizes the director to waive the above-described requirements in certain cases. However, the Municipality feels that it should not be left to the director to decide on a waiver of a provision that is, on its face, unreasonable with respect to some local governments. I would suggest that a specific exemption for municipalities such as Anchorage be inserted in place of the proposed AS 29.18.202(E).



With respect to the proposed AS 29.18.206 (school, university and mental health lands) the Municipality strongly supports this concept and urges its retention in the proposed bill. However, I would like to call your attention to some confusion in subsection (D) and (E) of this provision. Subsection (D) provides:

No selection of school, university or mental health land may be approved by the director under this section without the concurrence of (1) the State Board of Education, for school lands; (2) the Board of Regents of the University of Alaska, for university lands; or (3) the members of the Mental Health Land Board specified in AS 38.05.035(13), for mental health land.

However, subsection (e) states that:

Within three years after the approval under (D) of this section of a municipal selection of school, university or mental health lands, the director, with the concurrence of the respective board, shall designate appropriate state general grant land of approximately value as school, university or mental health replacement land.

It seems to me that school, university or mental health land officials are not going to concur in the transfer of their lands until after the state has identified alternative equal value land and obtained their approval. I would suggest that the Director of Lands be required, at the request of a municipality, to initiate an active program of identifying alternative equal value lands and to obtain the approval of the necessary school, university or mental health board officials within a specified time period in order to implement the policies expressed in proposed AS 29.18.206. For example, the Director could be required to identify a specific amount of land and present a proposal to school, university or mental health officials within one year from a request by a municipality. This would allow the municipality some degree of certainty in determining whether or not it would be able to acquire school, university or mental health lands.


Finally, the Municipality of Anchorage continues to support the proposed AS 29.18.208 (payment in lieu of land). This section is the only hope for Anchorage to obtain something approaching equitable treatment under the old municipal land selection program. For example, I call your attention to the fact that, under the old system, Anchorage, with a population of close to 200,000, was entitled to at most 20,865 acres. On the other hand, the Mat-Su Borough, with a small fraction of the Anchorage population, is

entitled to 355,210 acres of extremely valuable state land. The in lieu payment system proposed by CSHB 133 would at least allow Anchorage to receive in lieu payments to be used in aid of its own acquisition programs or for other important municipal purposes. Faced with the extreme inequity of the old land selection formula, the Municipality has serious objection to proposed AS 29.18.208(F) that would limit payments in lieu of land to no more than \$100 per capita. Since the Municipality is willing to take its in lieu payments over a number of years, I see no reason why Anchorage should be arbitrarily denied a major portion of its in lieu entitlement by the \$100 per capita limit. Such a provision should be seen as an outrage by Anchorage taxpayers, and should be deleted from the proposed legislation.

Thank you for the opportunity to comment on CSHB 133 (Finance). The Municipality will have representatives available to testify on this bill at any time, and will provide whatever data or other assistance you may require. If you have any questions concerning the above, please contact Mr. Ted Berns, Municipal Attorney, at 264-4237.

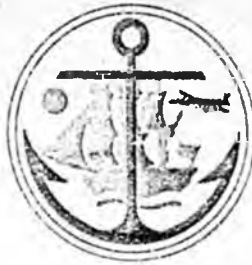
Sincerely yours,

MUNICIPALITY OF ANCHORAGE


George M. Sullivan
Mayor

GMS:TDB:gml

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

April 4, 1978

Senator Kay Poland, Chairman
Senate Resource Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Poland:

Thank you for the recent opportunity to testify before your committee on CSHB 133 Finance am. The Municipality of Anchorage continues to strongly support this legislation and urges its expedited approval by your committee. However, as I indicated during my testimony, the Municipality believes that a number of amendments should be made in order to make the proposed legislation an equitable settlement of land entitlements between local governments and the state.

AS 29.18.202(C)(D) in the proposed bill would, in essence, require some municipalities to promise that large amounts of land received from the state would be "committed to disposal to private ownership." Although such a proposal may have merit with respect to boroughs with large amounts of available vacant land, it is manifestly unreasonable for a municipality such as Anchorage that does not possess enough vacant land to satisfy even its own governmental needs. Anchorage is presently engaged in an on-going land acquisition program to provide land for streets, utilities, and park and recreation purposes. This land is being acquired at a tremendous cost in order to provide critically needed municipal facilities and services. Faced with such a situation, the idea of requiring Anchorage to dispose of a fixed amount of vacant land for private ownership is, at best, unreasonable. Although it may be desirable to sell municipal lands not needed for public purposes, such a decision should be left to the sound discretion of local elected officials.

I realize that proposed AS 29.18.202(E) authorizes the director to waive the above-described requirements in certain cases. However, the Municipality feels that it should not be left to the director to decide on a waiver of a provision that is, on its face,

unreasonable with respect to some local governments. I would suggest that a specific exemption for municipalities such as Anchorage be inserted in place of the proposed AS 29.18.202(E).

With respect to the proposed AS 29.18.206 (school, university and mental health lands) the Municipality strongly supports this concept and urges its retention in the proposed bill. However, I would like to call your attention to some confusion in subsection (D) and (E) of this provision. Subsection (D) provides:

No selection of school, university or mental health land may be approved by the director under this section without the concurrence of (1) the State Board of Education, for school lands; (2) the Board of Regents of the University of Alaska, for university lands; or (3) the members of the Mental Health Land Board specified in AS 38.05.035(13), for mental health land.

However subsection (e) states that:

Within three years after the approval under (d) of this section of a municipal selection of school, university or mental health lands, the director, with the concurrence of the respective board, shall designate appropriate state general grant land of approximately equal value as school, university or mental health replacement land. (emphasis added)

It seems to me that school, university or mental health land officials are not going to "concur" in the transfer of their lands until after the state has identified alternative equal value land and obtained their approval. I would suggest that the Director of Lands be required, at the request of a municipality, to initiate an active program of identifying alternative equal value lands and to obtain the approval of the necessary school, university or mental health board officials within a specified time period in order to implement the policies expressed in proposed AS 29.18.206.

For example, the Director could be required to identify a specific amount of land and present a proposal to school, university or mental health officials within six months from a request by a municipality. This would allow municipalities some degree of certainty in determining whether or not they would be able to acquire school, university or mental health lands. The following is suggested language for such an amendment:

29.18.206(e) (replacement for existing subsection (e))

(e) Within six months after request by a municipality for selection of school, university or mental health land, the director shall identify state general grant land of approximately equal value to the land requested by the municipality, and shall propose such replacement land for the concurrence of the appropriate board under (d) of this section. If a proposal by the director is rejected by the board, the director shall meet with the board as often as necessary to determine the type and amount of equal value replacement land that would be required to obtain the board's concurrence under (d) of this section, and shall propose such land for consideration by the board. The replacement land shall thereafter be managed for the purposes for which the land selected by the municipality was acquired by the Territory and the State of Alaska.

In regard to the proposed AS 29.18.206(c), the present language provides that, "upon receipt of a selection by a municipality of school, university or mental health land, the director shall determine whether the land selection should be approved." The Municipality believes that, if the appropriate board concurs in a proposed exchange of land under AS 29.18.206, the director should not have the unfettered discretion to deny approval.

Finally, the Municipality of Anchorage continues to support the proposed AS 29.18.208 (payment in-lieu of land). This selection is the only hope for Anchorage to obtain something approaching equitable treatment under the old municipal land selection program. For example, I call your attention to the fact that, under the old system, Anchorage, with a population of close to 200,000, was entitled to at most 20,865 acres. On the other hand, the Mat-Su Borough, with a small fraction of the Anchorage population, is entitled to 355,210 acres of extremely valuable state land. The in-lieu payment system proposed by CSHB 133 would at least allow Anchorage to receive in-lieu payments to be used in aid of its own acquisition programs or for other important municipal purposes. However, faced with the extreme inequity of the old land selection formula, the Municipality has serious objection to proposed AS 29.18.208(F) that would limit payments in-lieu of land to no more than \$100 per capita.

A brief analysis will reveal the inequity of the \$100 per capita limit. Under the present bill, the in-lieu entitlement for Anchorage is 90,863 acres. Although the precise amount of land

Senator Kay Poland

April 4, 1978

Page 4

that Anchorage may be able to obtain is difficult to compute, our staff estimates that the figure will almost certainly be less than 12,000 acres. This leaves an unfulfilled entitlement of 78,863 acres to be satisfied by the payment in-lieu of land provision of CSHB 133. Under the payment schedule contained on page 10 of the bill, Anchorage should therefore be able to obtain a total of \$43,102,050 over a period of not less than eight (8) years. However, Anchorage would not object to taking its in-lieu payments over a period of from 10 to 15 years, if the per capita limit of \$100 is increased.

Under the arbitrary \$100 per capita limit however, Anchorage would be entitled to a total of not more than \$20,000,000, which amounts to payment on 46% of its actual, unfulfilled entitlement. In other words, the \$100 per capita limit would have the effect of arbitrarily denying payment for 54% of the 78,863 acres that Anchorage cannot obtain in the form of land. Moreover, it appears from our research that Anchorage may be the only municipality that would be denied a major portion of its in-lieu entitlement through the proposed \$100 per capita limit.

I can understand why some per capita limit is necessary as a safeguard to protect the state treasury. However, I suggest that a limit of not less than \$250 per capita would serve this function and yet allow Anchorage to receive at least a major portion of its entitlement either as land or payment in-lieu of land. I strongly urge your committee and the entire Senate to amend CSHB 133 to increase the present \$100 per capita limit to not less than \$250.

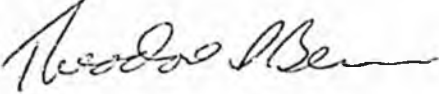
At the committee hearing, some objection was raised to the effect that the payment in-lieu of land provision would constitute an unjust enrichment of Anchorage at the expense of the State. However, as I noted in my testimony, the proposed bill would have the effect of transferring a truly incredible amount of valuable land to Alaska municipalities. Given the ever increasing demands for land and ever increasing land prices in Alaska, the State must view land transferred to local governments at least in part as the equivalent of money. Using what I feel are very conservative assumptions of average land value, it is not difficult to see that in terms of total value received, expressed in monetary terms, the proposed bill is far from any sort of unjust enrichment of Anchorage. The attached chart lists some of the comparisons that I mentioned to the committee during my testimony.

By revealing the comparisons shown on the attached chart, the Municipality does not object to the entitlement of any other borough under the proposed bill. By allowing Anchorage to take its entitlement in the form of in-lieu payments perhaps over a substantial period of time, the needs of all municipalities can be met and an equitable final settlement of the long standing controversy over land selections can be achieved.

Senator Kay Poland
April 4, 1978
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Thank you for the opportunity to comment on CSHB 133 (Finance)am. The Municipality will have representatives available to testify on this bill at any time, and will provide whatever data or other assistance you may require. If you have any questions concerning the above, please contact me at 264-4237.

DEPARTMENT OF LAW



Theodore D. Berns
Municipal Attorney

TDB:gml
Attachment

cc: Members of the Committee
Senator Orsini
Representative Rudd

ANALYSIS OF CSHB 133 (FINANCE)AM

Assume: Average land values equal \$1,500 per acre

Population equals most recent revenue sharing data

Total Value of Land Transferred
to Municipalities Under CSHB 133

1. Kenai Peninsula Borough

Entitlement = 155,780 acres
Land value = \$233,670,000
Population = 24,611

Per capita value = \$9,495

2. Fairbanks North Star Borough

Entitlement = 112,000 acres
Land value = \$168,000,000
Population = 60,227

Per capita value = \$2,789

3. Mat-Su Borough

Entitlement = 355,210 acres
Land value = \$532,815,000
Population = 16,774

Per capita value = \$31,859

4. Ketchikan Gateway Borough

Entitlement = 11,500 acres
Land value = \$17,939,500
Population = 11,490

Per capita value = \$1,513

5. Kodiak Borough

Entitlement = 45,200 acres
Land value = \$67,800,000
Population = 7,901

Per capita value = \$8,581

6. Bristol Bay Borough

Entitlement = 2,898 acres
Land value = \$4,347,000
Population = 1,311

Per capita value = \$3,316

7. City and Borough of Juneau

Entitlement = 19,584 acres
Land value = \$29,376,000
Population = 20,465

Per capita value = \$1,435

8. Haines Borough

Entitlement = 3,985 acre
Land value = \$5,977,500
Population = 1,924

Per capita value = \$3.107

9. Anchorage

Entitlement = 90,863 acres
Land value = \$136,294,500
Population = 180,863

Per capita value = \$754 ^{1/}

^{1/} Note that Anchorage in fact would be able to exchange only approximately 78,000 acres for payment in-lieu of land. Under the formula in HB 133, this works out to less than \$250 per capita.

Municipality
of
Anchorage



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

May 5, 1978

Senator Joseph Orsini, Chairman
Senate Community & Regional
Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

On May 2, 1978, the Anchorage Assembly adopted Resolution AR 78-61 (copy attached as Exhibit A) dealing with SCS CS HB 133, presently before your Committee. In this resolution, the Assembly, together with the Municipal Administration, point to the inequitable treatment received by Anchorage under the present version of HB 133. The following is a brief summary of the major points:

With respect to land entitlement figures, at least seven, and probably more, of the municipalities listed on pages 1-2 of the bill have had their entitlements substantially increased over a literal application of the 10% VUU formula contemplated by existing law. For example, one municipality has been increased from 25 acres to 9,200, another has gone from 440 acres to 13,600 acres, and another has been adjusted from 645 acres to 89,850 acres. Anchorage, on the other hand, has remained at its 10% figure of 20,865 acres even though this entitlement results in by far the lowest per capita entitlement of any local government in the state.

SCS CS HB 133 also deleted language that would have prevented the area known as the "Campbell Tract" (approximately 5,000 acres) from being deducted from the Anchorage entitlement if that land eventually is transferred to the Municipality. Use of the Campbell Tract is restricted, by federal act, to a specific park plan that contemplates management by the state and federal governments as well as the Municipality. Any change in use from that listed in the federally recognized plan, even for such things as necessary expansion of local roads, may well require approval by the Congress. To my knowledge, no other municipality has had

Senator Joseph Orsini

May 5, 1978

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land that is so restricted and encumbered counted against its land selection entitlement. Anchorage should not be forced to decide whether to reject a transfer of the Campbell Tract in order to prevent using a major part of its remaining entitlement for land that is subject to severe use restrictions.

In the Senate Resources Committee, a great deal of rhetoric was addressed to the point that Anchorage should not be entitled to receive any payments in lieu of land under A.S. 29.18.207 in the proposed legislation. The Committee reviewed figures from the Alaska Division of Lands (ADL) attempting to create the impression that there is ample available land to meet the Anchorage entitlement of 20,865 acres. As discussed later in this letter, subsequent investigation has revealed that these figures are, at best, misleading, and in fact, have been acknowledged to be in error by ADL staff. The figures presented by the State speak in large part to land for which the State does not even have tentative approval or lands that are otherwise clearly not presently available for local selection. Of the small amount of land that might be available for selection by Anchorage, most is clearly inappropriate and therefore unavailable for municipal use under the criteria advanced by the State on pages 4-5 of SCS CS HB 133. (See Exhibit B)

The figures advanced by ADL to the Senate Resources Committee are an attempt to create the illusion of adequate, appropriate state land in Anchorage that would, I can assure you, disappear once the bill is enacted into law. The simple fact is, as anyone who is even remotely familiar with Anchorage land clearly knows, the Municipality cannot expect with any assurance to obtain any appreciable amount of its entitlement in the form of land in the foreseeable future. It is, however, the Municipality's position, as stated in the Assembly's Resolution, to accept any appropriate state land within the Municipality in partial satisfaction of its entitlement.

It is the position of the Municipality that Anchorage be entitled to payment in lieu of land for any portion of its entitlement that cannot be satisfied through a timely transfer of appropriate state land. Hollow promises concerning various types of land that "might" be available "sometime" for use by the Municipality are unacceptable. It is my belief that a majority, if not all, municipalities in the state support the in lieu payment schedule in SCS CS HB 133 as at least a small attempt to achieve equity for Anchorage taxpayers in a final settlement of the land selection program.

Based on the attached analysis (Exhibit B) of appropriate state land in Anchorage, it is anticipated that Anchorage might eventually request payment in lieu of land for up to 12,500 acres of entitlement. This would mean that Anchorage would receive approximately \$16,875,000 in payments over approximately four

Senator Joseph Orsini

May 5, 1978

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years under the present entitlement figure of 20,865 acres. In the Resources Committee, great concern was expressed over any payment to Anchorage. However, that Committee added language to the bill that may result in payment to Kodiak Island Borough of up to \$26,000,000 based on a legal argument concerning the Native Claims Act (ANCSA) which is tenuous at best. The logic of such action is difficult to fathom.

The State Administration has indicated that it will not accept an in lieu payment system that would commit the State to payment of over approximately \$20,000,000. Apparently this figure is advanced as the Administration's "bottom line" regardless of the time period over which municipalities are willing to accept payment. Again, the logic of this position is difficult to understand when the value of state land to be transferred to other municipalities under the bill could be over one billion dollars (\$1,000,000,000.). (See attached analysis, Exhibit C). The Administration apparently either believes that Alaska land does not readily translate into money (a position so naive it cannot be accepted) or (more likely) that by attempts to frighten the Legislature with large dollar figures and veiled threats of veto, it can force Anchorage legislators to accept less than an equitable settlement for their municipality.

One other alternative that has received some discussion is to force Anchorage to select state land in other boroughs or in the unorganized borough in satisfaction of its entitlement. Although it is conceivable that such a plan could have merit, it would clearly force the Municipality into a speculative gamble on the availability of suitable land not already subject to selection by other boroughs or native claims. The potential administrative expense and land management problems that such a proposal would entail are substantial. The Municipality could not know beyond mere speculation what land it might receive or what the costs associated with such land might be. Although the Assembly's resolution did not specifically address this option, as the Municipal Attorney, I would be forced to advise against such an uncertain solution to an equitable settlement for Anchorage.

Attached to this letter as Exhibit D, are suggested specific amendments to SCS CS HB 133 together with brief explanations of the reasons for such amendments. It should be noted that Anchorage has not and does not begrudge other boroughs their relatively large entitlements under the proposed bill. Certainly no one would argue that all of the circumstances existing when the land selection program was started exist today. Consequently, it could be argued that it would be in the best interests of Anchorage to propose a simple repeal of the old program. The sale of state land could then be used to fund local government programs on some sort of equitable, per capita basis. The Municipality has not taken such a position and has instead agreed to work toward an equitable settlement of the old land selection program. With this

Senator Joseph Orsini

May 5, 1978

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in mind, I urge your committee and all Anchorage legislators to adopt the attached amendments to SCS CS HB 133.

If you have any questions concerning the above, please contact me at 264-4237. Thank you for the opportunity to comment on this legislation.

Sincerely yours,

DEPARTMENT OF LAW



Theodore D. Berns
Municipal Attorney

TDB:ah

Enclosures

Exhibit A

Submitted by: Chairman of the Assembly
at the request of the Mayor
Prepared by: Department of Law
For Reading:

ANCHORAGE, ALASKA
AR NO. 78-61

A RESOLUTION REQUESTING EQUITABLE TREATMENT OF ANCHORAGE IN
SETTLEMENT OF THE MUNICIPAL LAND SELECTION PROGRAM.

WHEREAS, the Alaska Legislature has had House Bill 133 entitled, "An Act relating to selection and transfer of state land to municipalities; and providing for an effective date" under consideration, and the Senate Resources Committee has recently reported out SCS CSHB 133 for further consideration by the Senate Community and Regional Affairs Committee; and

WHEREAS, the intent of the present version of HB 133 is to provide for an immediate, equitable settlement of municipal land entitlements under the municipal land selection program existing pursuant to AS 29.18.190 - .200; and

WHEREAS, land entitlements confirmed under HB 133 have been substantially adjusted upward for several municipalities other than Anchorage from the actual figure of ten percent (10%) of state vacant, unappropriated and unreserved land within local boundaries as contemplated by AS 29.18.190 - .200; and

WHEREAS, Anchorage has been denied any similar adjustment of its land entitlement notwithstanding the fact that the Municipality is already scheduled to receive by far the lowest per capita land entitlement of any local government in the state; and

WHEREAS, there exists no justification in law or fact for such inequitable and discriminatory treatment of Anchorage in the settlement of disputes over the municipal land selection program; and

"A"

WHEREAS, there is a serious shortage of appropriate and available state land for municipal selection in the Anchorage area as well as a shortage of funds available for land acquisition and other land related needs of municipal residents; and

WHEREAS, HB 133 provides for payment in lieu of land to municipalities such as Anchorage that are unable to obtain sufficient, appropriate state land to meet their entitlements; and

WHEREAS, such in-lieu payments are desperately needed to assist in meeting the land related needs of the Municipality but are threatened by the discriminatory and inequitable treatment of the land entitlement established for Anchorage in HB 133;

NOW, THEREFORE, the Anchorage Assembly in conjunction with the Municipal Administration hereby resolves:

Section 1. That the position of Anchorage with respect to HB 133 is to accept every available acre of appropriate state land within the Municipality in partial satisfaction of its land entitlement; and

Section 2. That Anchorage residents are entitled to equitable, nondiscriminatory treatment with respect to other municipalities in the upward adjustment of land entitlement figures under HB 133 over the entitlements authorized by a strict application of AS 29.18.190 - .200; and

Section 3. That land, such as the area commonly known as the Campbell tract, that is subject to preexisting federal or state restrictions on use or management not be counted toward the Municipality's land entitlement, and that the Municipality

"A"

be required to count against its entitlement only land that is appropriate for municipal selection, and subject exclusively to municipal control.

Section 4. That Anchorage be entitled to payment in-lieu of land for any portion of its land entitlement that cannot be satisfied through a timely transfer of appropriate state land, and that such payment, as a minimum, follow the payment scale and other payment provisions expressed in SCS CSHB 133; and

Section 5. That the Governor and Legislature be reminded that both the total and per capita dollar value of state lands to be transferred to many other municipalities under HB 133 far exceeds the amount that could possibly be awarded to Anchorage as payment in-lieu of land, and that equity demands the Administration's support for funding any in-lieu payment system established by HB 133.

Section 6. That the Senate Community and Regional Affairs Committee address the inequities and discriminatory treatment of Anchorage under the present SCS CSHB 133 and that all Anchorage legislators make the expeditious passage of an acceptable version of HB 133 a matter of highest priority for the present legislative session.

Passed and approved by the Anchorage Assembly, this

_____ day of _____, 1978.

Chairman

ATTEST:

Municipal Clerk

"A"

EXHIBIT B

ANCHORAGE LAND STATUS

It should be noted that the following figures are the result of a cooperative effort between municipal staff and ADL personnel to determine the status of government owned land in Anchorage. Data and records at both the State and local level is at best imprecise. However, the figures below represent the best possible estimates to date.

State Land

Trust Lands
(not presently available
for selection)

Mental Health	1,806 acres
School	2,294
University	<u>6,200</u>
TOTAL:	10,300

It should be noted that a great deal of these trust lands would probably not be suitable for land exchanges under the proposal contained in SCS CS HB 133.

Vacant, Unappropriated,
Unreserved Lands 6,720 acres

Of the 6,720 acres identified by the State as VUU on maps presented to the Municipality, analysis has shown that probably no more than 1,700 acres that would meet the criteria for local selection and use outlined on pages 4-5 of the proposed bill.

Selected from the Federal
Government (No Tentative Approval) 240,280 acres

Virtually all of these lands are located east of Chugach State Park. There is presently no way of knowing for certain whether all or part of this land would be available or appropriate for local selection under the proposed bill.

Municipal Land

Patented or Approved To Anchorage	4,253 patent <u>2,475 TA</u> 6,728 acres
--------------------------------------	--

Under AS 29.18.204(b) of the proposed bill, some or all of the 2,475 acres of TA land could be rejected as inappropriate for local selection. There is no way to know at this time precisely how many acres could be affected.

It should also be noted that state records show another 9,770 acres of municipal selections for which TA has not been received. This figure, however, includes over 5,000 acres of Campbell Tract and other lands that apparently do not meet VUU criteria. As noted above, from data supplied by the State and from working with ADL staff, it appears that only up to 1,700 acres of VUU land would be available to Anchorage in addition to land for which TA or Patent has been received.

Summary Of Lands
Available To Anchorage

Patent	4,253	
TA	2,475	
To be selected	1,700	
	<u>8,428</u>	acres
Entitlement under SCS CS HB 133	20,865	
	- 8,428	
Remaining Entitlement	<u>12,437</u>	acres

EXHIBIT C

ANALYSIS OF SCS CS HB 133

Assume: Average land values equal \$1,500 per acre

Population figures are from revenue sharing data

Value of Land Transferred to
Municipalities Under SCS CS HB 133

1. Kenai Peninsula Borough

Entitlement = 155,780 acres
Land value = \$233,670,000
Population = 24,611

Per capita value = \$9,495

2. Fairbanks North Star Borough

Entitlement = 112,000 acres
Land value = \$168,000,000
Population = 60,227

Per capita value = \$2,789

3. Mat-Su Borough

Entitlement = 355,210 acres
Land value = \$532,815,000
Population = 16,724

Per capita value = \$31,859

4. Ketchikan Gateway Borough

Entitlement = 9,200
Land value = \$13,800,000
Population = 11,190

Per capita value = \$1,201

5. Kodiak Borough

Entitlement = 56,500
Land value = \$84,750,000
Population = 7,901

Per capita value = \$10,726

6. Bristol Bay Borough

Entitlement = 1,940
Land value = \$2,910,000
Population = 1,311

Per capita value = \$2,219

7. City and Borough of Juneau

Entitlement = 13,600
Land value = \$20,400,000
Population = 20,465

Per capita value = \$997.

8. Haines Borough

Entitlement = 1,080
Land value = \$1,620,000
Population = 1,924

Per capita value = \$842.

EXHIBIT D

SUGGESTED AMENDMENTS TO SCS CS HB 133

1. Page 1, lines 17-18: Delete "to assist in meeting costs of acquisition of land to meet public needs."

Although this would no doubt be a legitimate use of in lieu payments, actual expenditures of funds should be left to the decision of local elected officials. Other boroughs have for years sold land received from the state and have used the proceeds for public purposes without restrictions. Anchorage should be allowed the same flexibility with respect to any in-lieu payments received under HB 133.

2. Page 1, line 24: Delete "20,865" and insert "44,893."

The state has selected 240,280 acres of land in Anchorage but has not yet received tentative approval. Consequently, the figure was not included in the 20,865 acres listed in SCS CS HB 133. Since the bill fixes and thereby cuts off entitlements, it is only fair for Anchorage to be credited with at least 10% of the above-described state selected land.

3. Page 2, line 28: Add "or to that portion of an entitlement that cannot be satisfied by such date due to a shortage of appropriate available state land."

This amendment would allow municipalities such as Anchorage more time to fill their entitlements with appropriate state land should it become available in the future. In Anchorage, for example, it is possible that land controlled by the Army or Air Force could become available in the future and be used to fill part of any remaining entitlement for which in lieu payment had not been reviewed.

4. Page . line 12: Add after the period-

"Land deemed appropriate for municipal selection shall be land that is suitable and appropriate for an identifiable present or future municipal use or for disposal to private use by the municipality by sale or other means."

This language would protect municipalities from possible abuse of the broad criteria expressed in subsections (g) and (h) on pages 4 and 5. The intent of the language is to minimize disputes with the state over the type of land that is appropriate for local selection and management.

5. Page 9, line 10: Add after the period-

"In certifying a municipality's remaining entitlement and available vacant, unappropriated, unreserved land under this subsection, only land meeting the criteria for local selection and use under 204(g) of this chapter shall be considered."

The purpose of this amendment is to eliminate ambiguity in applying the payment in lieu of land formula. Since only VUU land meeting the criteria of 204(g) can be approved for transfer to municipalities, it is only consistent to use these lands in applying the in lieu payment formula.

6. Page 10, Line 13: "Except as provided in (g) of this section,"
(Comment)

This language has the effect of possibly allowing Kodiak Island Borough to receive up to \$26,000,000 in in lieu payments. Kodiak's claim is based on a legal theory concerning lands selected under the Native Claims Act (ANCSA) over which there is no doubt considerable disagreement. It is by no means clear that Kodiak will not be able to obtain many of the disputed lands for which payment might be claimed under this section. If, as the State Administration indicates, the dollar impact of the bill must be limited to less than full compensation for all municipalities entitled to in lieu payment, any per capita limit should be applied evenly to all municipalities.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

March 15, 1978

The Honorable Hugh Malone
Speaker of the House

and

The Honorable John Rader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Re: Oil Spill Civil Penalties

Gentlemen:

On March 7, you requested the Department of Law to review the legality of the submission process utilized by the Department of Environmental Conservation for the oil spill civil penalty regulations pending before the Administrative Regulations Review Committee. Our opinion, issued on March 9, concluded that the regulations were indeed properly before the legislature.

It has come to my attention that a March 7 memorandum from Joseph A. Guthrie of the Legislative Affairs Agency is being cited for the proposition that our conclusion was erroneous. The memorandum, of course, was prepared without prior review of the Department of Law opinion. In our view, the memo rather badly misconceives both the nature and purpose of the Department of Environmental Conservation's actions in this matter.

As you are aware, the Department of Environmental Conservation submitted these regulations to the legislature prior to their adoption and filing. The Legislative Affairs memo asserts that, in doing so, that Department was attempting to escape the adoption requirements of the Administrative Procedure Act (AS 44.62). The memo then suggests the obvious conclusion that the specific review provisions of the civil penalty law (AS 46.03.758) do not excuse that Department from compliance with the APA--a view with which the Department of Law has no quarrel. Thus, the memo concludes, the Department of Environmental Conservation's actions must be illegal.

The Honorable Hugh Malone
The Honorable John Rader

March 15, 1978

-2-

The flaw in the memo's reasoning is that the Department of Environmental Conservation is not attempting to short-cut the APA. As our March 9 opinion makes clear, the APA requires adoption and filing prior to regulations becoming effective, and there is no question that the Department of Environmental Conservation must adopt and file the regulations before they may become effective. Thus, the question in this matter is not whether Environmental Conservation must comply with the APA but, rather, in what sequence should the steps required by the APA be taken in relation to the peculiar provisions of AS 46.03.758.

The question is thus one of timing--which the March 7 memo does not even address, much less attempt to resolve. As our March 9 opinion concludes, the language of sec. 758 and the APA do not answer the question. The APA, of course, does not require adoption at any particular time. Moreover, sec. 758(b) does not require the submission of "adopted" regulations. Indeed, the only use of the term "adoption" in the statute is found in subsection (c), in which the sixty-day review period provided in (b) is referred to as an "adoption" process.

Given the ambiguous wording of sec. 758, our March 9 opinion takes the next necessary step of looking to the legislative intent of the law. Particularly in light of the fact that the legislature already possesses post-adoption review authority under AS 44.63.320, it is our view that the review provisions of AS 46.03.760(b)-(c) were intended to give the legislature a meaningful role in the promulgation of the regulations. Given this intent, the only action the Department of Environmental Conservation could have taken was to submit the regulations unadopted. Had they been submitted then in adopted and filed form, the unique limitations of sec. 758(c) would have precluded any changes--no matter how strongly urged by the legislature--for an entire year. The role which sec. 758 was intended to guarantee for the legislature would have been abrogated.

The March 7 memo also concludes that, since the sixty-day review provisions of sec. 758 "have the same essential effect" as AS 44.62.320, which grants the legislature broad annulment authority over all administrative regulations, the former section impliedly repeals the latter. This conclusion, if correct, would mean the legislature would have no power to subsequently annul these regulations, if it permits them to go into effect at this time.

The Honorable Hugh Malone
The Honorable John Rader

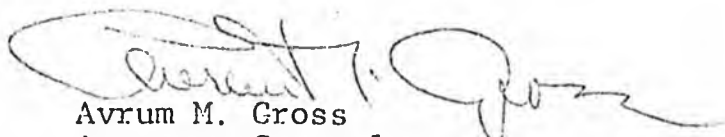
March 15, 1978

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It is our view that the legislature intended to expand, rather than limit its regulations review role, and that sec. 758 should be viewed as a supplement to, rather than an implied repealer of AS 44.62.320. One can reach that conclusion, of course, only if one shares our view that sec. 758 was intended as a pre-adoption review. However, once that conclusion is reached, the basis for concluding that the post-adoption annulment authority of sec. 320 is impliedly repealed vanishes.

Thus, assuming the constitutionality of the legislature's basic power to annul regulations of any kind, the legislature, after March 20, will retain its authority to annul these particular regulations.

Yours very truly,



Avrum M. Gross
Attorney General

AMG:as

cc: Representative Al Ose
Representative Rick Urion

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99811

March 9, 1978

The Honorable John Rader
President
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: Submission of Oil Spill
Civil Penalty Regulations

Dear President Rader:

You have asked whether the regulations for oil spill civil penalties have been properly submitted to the legislature.

The short answer is yes.

AS 46.03.758(b) requires that "regulations" establishing a schedule of penalties for oil spills be submitted to the legislature no later than 10 days after the convening of the Second Session of the Tenth Alaska Legislature. AS 46.03.758(c) provides as follows:

Regulations adopted under (b) of this section shall become effective 60 days after submission to the legislature, unless disapproved by a special concurrent resolution. . . within 60 days of the submission of the regulations. . . . Revised regulations shall be submitted to the legislature no later than 10 days after the convening of the appropriate regular session of the legislature, and are subject to disapproval as specified in this subsection. */

*/ It is, of course, the executive's contention that a legislative veto of the adoption of an administrative regulation is unconstitutional. The defect does not affect the validity of the regulations which ultimately may be adopted.

These provisions may be viewed as prescribing one of two, contrary results. One, they may be viewed as prescribing that regulations be adopted formally under the Administrative Procedure Act (APA) AS 44.62, and then submitted to the legislature to be voted up or down as adopted. Two, they may be viewed as prescribing that regulations be proposed as provided for in the APA, but not formally adopted, and then submitted for approval or disapproval. The latter method allows the proposed regulations to be altered prior to final approval or disapproval by the legislature. If, and as, approved, the regulations are then filed with the Lieutenant Governor for codification. We believe that the second view is the correct view.

To begin with, the statute itself contemplates a one-time procedure for submitting and adopting the regulations, i.e., at this session of the Tenth State Legislature. It is not reasonable to suppose that this legislature, at its last session, sought or intended to tie its own hands with a yes-or-no, all-or-nothing proposition. It is much more reasonable to assume that it intended to allow itself some degree of flexibility by using the veto power to compel the rulemaker to modify its proposed rules to avoid a veto. Were the regulations already adopted, this could not be done.

We are supported in our belief by the Administrative Regulation Review Committee's actual use of the veto power to compel modification of the proposed regulations. Additionally,

Chairman Gardiner--whose Judiciary Committee inserted these provisions for the legislative veto--confirms our view. While his confirmation is not cognizable evidence in a court of law, A.P.E.A. v. State, 525 P.2d 12 (Alaska 1974), it is certainly cognizable by the legislature in its consideration of the matter.

We are further supported in our belief by the existence of AS 44.62.320, which purports to vest the legislature with a power to annul an administrative regulation by a concurrent resolution. */ The provisions for legislative annulment of an administrative regulation is an all-or-nothing thing, the legislature examines a regulation which has already been adopted and determines whether it is consistent with the law under which it was adopted. If the legislature determines that it was not, it annuls it by adoption of a concurrent resolution.

While the same result could be achieved by a veto of a final administrative adoption of the regulation, as it is under AS 44.62.320, it would, in this case, also result in no penalties being set whatsoever, an unlikely result at best. The net effect would be to repeal the statutory provision for civil penalties by a concurrent resolution. We cannot attribute this intent to the legislature. It, therefore, seems more likely that the legislative veto was to be employed to obtain

*/ It is, of course, the executive's contention that this provision is unconstitutional. The issue is now before the Alaska Supreme Court.

President John Rader

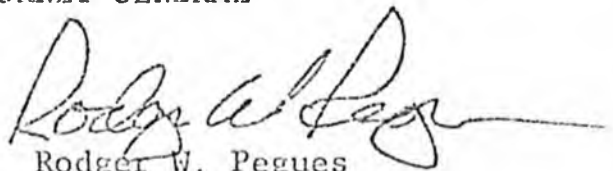
- 4 -

March 9, 1978

regulations for penalties which met with legislative approval. This could only be achieved, however, if the regulations before the legislature were proposed, but not adopted, prior to their submission.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Rodger W. Pegues
Assistant Attorney General

RWP:d1m

CSHB 133 Fin am

<u>Borough</u>	<u>Maximum Entitlement</u>	<u>In Lieu By \$ per Acre</u>	<u>\$100 Pop. Limit</u>	<u>\$250 Pop. Limit</u>
Anchorage	90,863	\$ 47,302,050	\$18,065,300	\$45,163,250
Juneau	19,584	22,188,000	2,046,500	5,116,250
Sitka	11,593	16,194,750	765,000	1,912,500
Bristol Bay	2,898	4,347,000	131,100	327,750
Haines	3,985	5,977,500	192,400	481,000
Ketchikan	11,593	16,194,750	1,149,000	287,250
North Slope	89,850	46,947,500	913,900	2,284,750
Kodiak	45,200	31,320,000	790,100	1,975,250
Kenai	155,780	50,023,000	2,461,100	6,152,750
Mat-Su Boro	355,210	139,323,500	1,672,400	4,181,000

CSHB 133 Fin am

Hearing before Senate Resources
March 29, 1978

Committee Members

Poland
Meland
Tillian
Huber
Sumner
Croft

Municipal Representatives

Bob Hardig, Kodiak
Dale Tubbs, Kodiak
Gillman, Kenai
Sharp, Juneau
Berns, Anchorage
Carlson, Fairbanks
Slajer, Ketchikan
Jim Rolle

Main Items of Testimony:

1. The deletion of (g) and (h) of 29,18.205 which established criteria for approval or disapproval of municipal selections by the ADL. Testimony by Mike Smith indicated this also eliminates the possibility of considering selections from other than the strict definition of vacant, unappropriated, unreserved land and general grant land (see definition section). For example, it eliminates lands classified as resource management (this is a very general classification) and future state land selections. Eliminates land for new communities.

Several communities pointed out that deletion of (g) and (h) also eliminates the criteria for judging whether a municipality should select certain trust lands as well.

2. In Lieu Payments were considered by several municipalities to be too low. The \$1,500 etc./acre figure was found fault with as being no where near fair market value. The \$100 per capita limit was considered way too low. Anchorage stated \$250/capita would be the least they could live with.

Testimony on CS HB 133 Fin am
Senate Resources
March 29, 1978

Kodiak

1. felt legislation should consider the unique problems of each municipality.

2. outlined problems they have had in receiving their entitlements.

a) 9,700 acres selected (approx.)

2,100 acres patented

7,600 acres tentative approval

b) Running into problems with Native Claims Act; villages are selecting same lands.

c) ADL has classified several areas over the years w/ coop. from boros.

d) Borough did not realize this would preclude borough selection.

e) Feels that ADL deliberately stalled on approving selections & duped them into coop. on land classification.

f) Looks like only mountain tops left for borough selection.

g) May have to take in lieu payments. \$100 per capita should be recinded.

3. Would not want to be precluded from pursuing litigation.

4. Eliminate "grazing" from definition of classified lands.

insert "or classified as per state resource mgmt classification."

and on 38.05.321

There are grazing leases on Kodiak; sometimes 30-40 thousand acres — no revenue.

Kodiak (cont.)

5. Feels ADL has made a mistake in calculating their entitlement. Should be 65,000 acres.
(see attached correspondence)

Anchorage

1. Strongly supports trust lands swap
2. Value of land (in lieu payments) not near enough; should be fair market value.
3. ADL should not have veto power over trust land selection
4. \$100/capita limit way too low should be \$250 = \$43,268,000.

Bristol Bay

1. Supports bill
2. Concurs w/ Kodiak's comments
3. Prefers land to in lieu buy
\$100/capita too limiting
small population

Fairbanks

1. Favors reinstatement of (g) + (h)
2. Supports trust lands swap but (g) + (h) needed for criteria

Kenai

1. (g) + (h) restored
2. Supports trust lands portion
3. Agreed on Kenai's portion no matter what other boros get
4. Stressed expeditious action —
land use planning + energy planning.

TELEGRAM

HCA ALASKA COMMUNICATIONS, INC.
PHONE: 586-6440
JUNEAU, ALASKA 99801

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PMS REP LISA RUDD

ALASKA STATE LEGISLATURE POUCH V

JUNEAU ALASKA "

THE CITY AND BOROUGH OF SITKA SUPPORTS THE PASSAGE OF CS FOR
SENATE BILL NO. 241.

ROCKY GUTIERRES ADMINISTRATOR CITY AND BOROUGH OF SITKA

TELEGRAM

HCA ALASKA COMMUNICATIONS, INC

PHONE: 868-6440

JUNEAU, ALASKA 99801

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PMS REP LISA RIDD CHAIRMAN

HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

JUN

MATANUSKA-SUSITNA BOROUGH SUPPORT CSSR WITH CHANGES IN

SECTION 38.05.321 C. AND SECTION 29.13.202 D. LETTER WILL

FOLLOW.

WESLEY M HOWE BOROUGH MANAGER